

THE LAWYER'S COMPANION SERIES.

THE  
STAMP ACT  
(II OF 1899)

*With Legislative Changes made by the Imperial and Local  
Legislatures and the Case-law thereon revised and  
brought up to date*

BY

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VARIL, TRICHINOPOLY

SECOND EDITION.

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PRINTED AND PUBLISHED BY THE LAW PRINTING HOUSE AND  
THE LAWYER'S COMPANION OFFICE, MADRAS  
1925.

PRINTED AT  
THE LAW PRINTING HOUSE,  
MOUNT ROAD, MADRAS.



## P R E F A C E.

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There has been a great demand for a new edition of the Stamp Act of the Lawyer's Companion Series. Though this book was intended to be published about the middle of last year, it was delayed owing to the fact that two amending bills were on the legislative anvil and the provisions of those bills, when passed, had to be incorporated before this edition could be published. The amending Act, XV of 1925, was passed only on the 25th March, 1925, and the amendments made by that Act have also been incorporated herein.

The scheme of the book is as follows. All the amendments made by the several amending Acts of the Imperial Legislature from 1899 down to March 1925 have been incorporated in the body of the text of the Act and explanatory notes are given at the end of each section indicating such amendments and the particular amending Acts effecting them. The amendments made by the local legislatures of the various provinces in India which, under the Devolution Act, XXXVII of 1920, were empowered to alter the Stamp duties according to the contingencies of the revenues of each of the provinces, have been indicated separately at the end of each section, so that the provisions of the Imperial Act, which is common to all the provinces, may not be confused with the amendments made by the Local legislatures. In respect of the Stamp duties detailed in Schedule I of the Act, the amounts of such duties have been sufficiently and clearly indicated for each province separately with the name of the province prefixed to such amounts, so that at one glance the lawyer can get at the correct stamp duty without being put to the necessity of referring to the schedule of the local Act of each

province separately. This arrangement, it is hoped, will prove of great advantage to the busy practitioner.

With regard to the case-law, the general scheme of the Lawyer's Companion Series has been strictly followed. The portions of each section which have been the subject of judicial interpretation have been marked with indices and under the corresponding index figures, notes have been collated, classified and arranged in such a manner as to facilitate reference. The case-law has been brought down to the end of March, 1925.

Several appendices have been given at the end of the book containing, the Rules made under the Act by the Imperial Government and the Local Governments; Rules regarding reductions and remissions of stamp duties; Rules under the Act made by the several provinces in respect of the sales of stamps, etc., etc., all the earlier Stamp Acts (*viz.*) Act XXXVI of 1860, Act X of 1862, Act XVIII of 1869, Act I of 1879; and lastly all the Stamp Regulations relating to Bengal, Bombay and Madras, commencing from the year 1797.

The Stamp Rules, 1925, issued just now by the Government of India, have been printed in Appendix I-A.

The bare text of the Stamp Act, II of 1899, the Indian (Specified Instruments) Stamp Act, XIII of 1924, and the Local Acts and a comparative table showing the corresponding sections of the earlier Stamp Acts with reference to sections of the present Act have been prefixed to the book.

As usual, a subject index is given at the end of the book and a table of cases at the beginning.

SRIRANGAM, }  
29th May, 1925.

S. KASTURI RANGACHARIAR.

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\* At p. 36 read 27 A. 34 as 27 A. 84 ; at p. 167 read 27 A. 284 as 27 A. 84.

† At p. 241 read 33 A. 437 as 33 A. 487.

‡ At p. 152 read 35 A. 390 as 35 A. 290.

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\* At p. 4 read 10 M 274 (282) as 10 C. 274.

† At p. 16 read 16 C. 342 as 16 C. 432.

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\* At p. 210 read 36 C. 345 as 36 C. 645.

† At p. 231 read 40 C. 299 as 40 C. 219.

‡ At p. 144 read 4 M. 140 as 4 M. 137 (140).

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† At p. 185 read 12 M 331 as 12 M 231.

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\* At p. 173 read 2 Bom L R 1132 as 2 Bom L R 1132.

† At p. 35 read 3 Bom. L. R. 839 as 3 Bom. L. R. 839.

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\* At p. 251 read 11 Bom. L. R. 730 as 19 Bom. L. R. 730.

† At p. 50 read 213 Bom. L. R. 646 as 19 Bom. L. R. 646.

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\* At p. 25 read 42 Ind Cas 366 as 42 Ind Cas 365.

† At p. 8 read 47 Ind Cas 581 as 47 Ind Cas 561.

‡ At p. 106 read 57 Ind Cas 88 as 51 Ind Cas 83.

§ At p. 63 read 60 Ind Cas 599 as 60 Ind Cas 559.



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\* At p 25 read 6 L W 488 as 6 L W 448.

† At p. 152 read 1 L B R 282 as 1 L B R 281.

‡ At p. 21 read 9 L B R 77 (F B) as 7 L B R 77 (F B).

§ At p. 36 read 8 L B R 150 as 8 L B R 155.

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\* At p. 34 read 37 M L J 603 as 33 M L J 603.

† At p. 167 read 10 M L T 530 as 10 M L T 531

† At p. 167 read (1911) M W N 380 as (1911) 2 M W N 380.

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† At p. 140 read 7 N L R 126 as 7 N L R 26.

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# THE INDIAN STAMP ACT, 1899.

ACT II OF 1899.

---

AS AMENDED UP TO DATE BY THE IMPERIAL LEGISLATURE  
AND THE VARIOUS LOCAL LEGISLATURES, INCLUDING  
THE AMENDMENTS MADE BY ACT XV OF 1925.

---

*An Act to consolidate and amend the law relating to Stamps.*

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; It is hereby enacted as follows —

## CHAPTER I.

### PRELIMINARY.

Short title, extent and commencement. 1 (1) This Act may be called the Indian Stamp Act, 1899

(2) It extends to the whole of British India, inclusive of \* \* \* British Baluchistan, the Sonthal Parganas, and the Pargana of Spiti, and

(3) It shall come into force on the first day of July, 1899.

Definitions. 2. In this Act, unless there is something repugnant in the subject or context.

“Banker.” (1) “banker” includes a bank and any person acting as a banker.

“Bill of exchange.” (2) “bill of exchange” means a bill of exchange as defined by the Negotiable Instruments Act, 1881, and includes also a hundi, and any other documents entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money.

“Bill of exchange payable on demand.” (3) “bill of exchange payable on demand” includes—

(a) an order for the payment of any sum of money by a bill of exchange or promissory note or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods, and

(c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn.

"Bill of lading" (4) "bill of landing" includes a "through bill of lading," but does not include a mate's receipt

"Bond" (5) "bond" includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void, if a specified act is performed, or is not performed, as the case may be,

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another, and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another

(6) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed, or, where several persons executed the instrument at different times, first executed

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

"Chief Controlling Revenue-authority." (8) "Chief Controlling Revenue-authority" means—

(a) in the Presidency of Fort St George, the Presidency of Fort William in Bengal and the territories respectively under the administration of the Lieutenant-Governors of Bihar and Orissa and the North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue;

(b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner,

(c) in Sindh—the Commissioner,

(d) in the Punjab and Burma, including Upper Burma—the Financial Commissioner, and

(e) elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf.



"Collector."

(9) "Collector"—

(a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a district; and

(b) includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official Gazette, appoint in this behalf.

(10) "conveyance" includes a conveyance on sale and every instrument by which property whether moveable or "Conveyance." immoveable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bengal; Madras; Punjab; Assam; and the United Provinces of Agra & Oudh]—To cl. (10) of S. 2, the following shall be added, namely:—"or by schedule I-A, as the case may be.—By *Beng. Act III of 1922*; *Mad. Act VI of 1922*, *Punjab Act VIII of 1922*; *Assam Act III of 1922* and *U. P. Act V of 1923*

(11) "duly stamped", as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of "Duly stamped." not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in British India:

"Executed" and (12) "executed" and "execution" used with reference to instruments, mean "signed" and "signature":  
"execution."

"Impressed stamp." (13) "impressed stamp" includes—

(a) labels affixed and impressed by the proper officer, and

(b) stamps embossed or engraved on stamped paper.

(14) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, "Instrument." limited, extended, extinguished or recorded:

(15) "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty and includes also a final order for effecting a partition passed by any Revenue authority or any Civil Court and an award by an arbitrator directing a partition:

"Lease." (16) "lease" means a lease of immoveable property and includes also—

(a) a patta;

- (b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immoveable property,
- (c) any instrument by which tolls of any description are let,
- (d) any writing on an application for a lease intended to signify that the application is granted

(16-a) "marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom :

(17) "mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan or an existing or future debt, or the performance of an engagement one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property.

(18) "paper" includes vellum, parchment or any other material on which an instrument may be written

(19) "policy of insurance" includes—

- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;
- (b) a life-policy and any policy insuring any person against accident or sickness, and any other personal insurance :

(c) \* \* \* \*

(20) "policy of sea-insurance" or "sea-policy"—

- (a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel; and
- (b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself

any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance.

(21) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it :

"Promissory note." (22) "promissory note" means a promissory note as defined by the Negotiable Instruments Act, 1881,

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen.

"Receipt." (23) "receipt" includes any note, memorandum or writing—

- (a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or
- (b) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or
- (c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or
- (d) which signifies or imports any such acknowledgment ;

and whether the same is or is not signed with the name of any person : and

"Settlement". (24) "settlement" means any non-testamentary disposition, in writing, of moveable or immoveable property made—

- (a) in consideration of marriage,
- (b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or
- (c) for any religious or charitable purpose ;

and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise the terms of any such disposition.

## CHAPTER II.

## STAMP-DUTIES.

*A.—Of the Liability of Instruments to Duty.*

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

Instruments  
chargeable with  
duty.

- (a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July, 1899 ;
- (b) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment or endorsed, transferred, or otherwise negotiated, in British India, and
- (c) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed, out of British India, on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India and is received in British India :

Provided that no duty shall be chargeable in respect of—

- (1) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument,
- (2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894, or under Act XIX of 1838, or the Indian Registration of Ships Act, 1841, as amended by subsequent Acts.

## LEGISLATIVE CHANGES—PROVINCIAL.

[For Bengal only].—*After cl. (c) the following shall be inserted, namely :—*“ Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

- (aa) every instrument, mentioned in Schedule I A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Bengal on or after the first day of April, 1922 ; and
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person is executed out of Bengal on or after the first day of April, 1922, and relates to any property situated, or to any matter or thing done or to be done in Bengal, and is received, in Bengal.”—*Bengal Act III of 1922.*

[For Madras only].—*After cl. (c) the following shall be inserted, namely:—*“ Provided that except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A shall, subject to the exceptions contained in that schedule, be the duty chargeable on the following instruments —

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in the Presidency of Madras on or after the first day of April, 1922 ,
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed out of the Presidency of Madras on or after the first day of April, 1922, and relates to any property situated or to any matter or thing done or to be done in the said Presidency and is received in the said Presidency.”—*Mad. Act VI of 1922.*

[For the Punjab only].—*After cl. (c), the following proviso shall be inserted, namely:—*“ Provided that notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, and subject to the exemptions contained in Schedule I-A, the following instruments shall be chargeable with duty of the amount indicated in Schedule I-A, as the proper duty therefor, respectively, that is to say—

- (aa) every instrument mentioned in Schedule I A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in the Punjab on or after the date of commencement of this Act ;
- (bb) every instrument mentioned in Schedule I A as chargeable with duty under that schedule which, not having been previously executed by any person, is executed out of the Punjab on or after the date of the commencement of this Act and relates to any property situated, or to any matter or thing done or to be done in the Punjab, and is received in the Punjab.”—*Punjab Act VIII of 1922.*

[For Assam only].—*After cl (c) the following shall be inserted, namely :—*“ Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Assam on or after the first day of May, 1922 ; and

(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of Assam on or after the first day of May, 1923, and relates to any property situated, or to any matter or thing done or to be done in Assam, and is received in Assam."—*Assam Act III of 1923.*

[For the United Provinces only].—After cl. (c) the following shall be inserted, namely:—"Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

(aa) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed in the United Provinces on or after the first day of May, 1923 : and

(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule which, not having been previously executed by any person, is executed out of the United Provinces on or after the first day of May, 1923, and relates to any property situated, or to any matter or thing done or to be done in the United Provinces, and is received in the United Provinces."—*U. P. Act V of 1923.*

4. (1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(2) the parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument

Several instruments used in single transaction of sale, mortgage or settlement.

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bengal only].—In sub-section (1) of section 4 of the said Act—

(a) after the words and figure "in Schedule I" the following shall be inserted, namely:—

"or in Schedule I-A, as the case may be ;"

(b) for the words and brackets "instead of the duty (if any) prescribed for it in that schedule" the following shall be substituted, namely:—

"if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A as the case may be."—*Beng. Act III of 1922.*

[For Madras only].—In sub-section (1) of section 4 of the principal Act—

- (a) after the words and figure “in Schedule I” the words, figure and letter “or in Schedule I-A as the case may be” shall be inserted,
- (b) after the words “one rupee” the words “or one rupee eight annas” shall be inserted,
- (c) for the words “in that Schedule” the words, figures and letter “in Schedule I, or in Schedule I-A as the case may be” shall be substituted,—*Mad. Act VI of 1922.*

[For the Punjab only].—In sub-section (1) of section 4—

- (a) for the figure “I” after the words “in Schedule” shall be substituted the figure and letter “I-A”.
- (b) between the word “rupee” and the word “instead” shall be inserted the words “and eight annas.”—*Punj. Act VIII of 1922.*

[For Assam only].—In sub-section (1) of section 4 of the said Act,—

- (a) after the words and figure “in Schedule I,” the following shall be inserted, namely :—  
“or in Schedule I-A as the case may be”.
- (b) for the words and brackets, “instead of the duty (if any) prescribed for it in that schedule”, the following shall be substituted, namely :  
“if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be.”—*Assam Act III of 1922.*

[For the United Provinces only].—In sub-section (1) of section 4 of the said Act,—

- (a) after the words and figure “in Schedule I” the following shall be inserted, namely,—  
“or in Schedule I-A, as the case may be.”
- (b) for the words and brackets “instead of the duty (if any) prescribed for it in that schedule” the following shall be substituted, namely,—  
“if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be.”—*U. P. Act V of 1923.*

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments relating to several distinct matters,

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bengal only].—In section 6 of the said Act,—

- (1) in the first paragraph, after the words and figures "in Schedule I" the following shall be inserted, namely,—

"or in Schedule I A., as the case may be";

- (2) In the proviso, after the words "one rupee" the words "eight annas" shall be inserted, and after the words "has been paid" the following shall be added, namely,—

"unless it falls within the provisions of section 6 A."—*Bengal Act III of 1922.*

[For Madras only].—In section 6 of the principal Act, after the word and figure "Schedule I" the words, figure and letter "or in Schedule I A as the case may be" and after the words "one rupee" the words "or one rupee eight annas as the case may be" shall be inserted.—*Madras Act VI of 1922.*

[For the Punjab only].—In section 6—

- (1) between the word "descriptions" and the word "in" shall be inserted the word "given" and after the word and figure "Schedule I" shall be inserted the words, figure and letter "and Schedule I-A."

- (2) in the proviso, after the words "one rupee" the words "and eight annas" shall be inserted, and after the words "has been paid" the following shall be added, namely :—

"unless it falls within the provisions of section 6-A."—*Punjab Act VIII of 1922.*

[For Assam only].—In section 6 of the said Act,—

- (1) in the first paragraph, after the words and figure "in Schedule I" the following shall be inserted, namely,—

"or in Schedule I-A, as the case may be";

- (2) in the proviso, after the words "one rupee" the words "eight annas" shall be inserted, and after the words "has been paid" the following shall be added, namely,—

"unless it falls within the provisions of section 6-A."—*Assam Act III of 1922.*

[For the United Provinces only].—In section 6 of the said Act—

- (1) in the first paragraph, after the words and figure "in Schedule I" the following shall be inserted, namely,—

"or in Schedule I-A, as the case may be";

- (2) in the proviso, after the words "one rupee" the words "eight annas" shall be inserted, and after the words "has been paid" the following shall be added, namely—

"unless it falls within the provisions of section 6-A."—*U.P. Act V of 1923.*



## SECTION 6 A

[Newly added by various Local Legislatures.]

[For Bengal only].—

Payment of Bengal Stamp duty on copies, counterparts or duplicate when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid—

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in Bengal, have been chargeable, under the Bengal Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon.

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.—*Bengal Act III of 1922.*

[For the Punjab only].—

Payment of the Punjab Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Indian Stamp (Punjab Amendment) Act, 1922, has been paid—

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in the Punjab have been chargeable under the Indian Stamp (Punjab Amendment) Act, 1922, with a higher rate of duty be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in section 35 or in any other law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument counterpart, duplicate or copy is produced, shall permit the duty chargeable under this section to be paid thereon and shall then receive it in evidence.—*Punjab Act VIII of 1922.*

## S. 6-A—Newly added by various Local Legislatures.

[For Assam only].—

Payment of Assam Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6 A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Assam Stamp (Amendment) Act, 1922, has been paid—

- (a) on the principal or original instrument as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument, shall, if the principal or original instrument would, when received in Assam, have been chargeable, under the Assam Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon ;

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.—*Assam Act III of 1922.*

[For the United Provinces only].—

Payment of the United Provinces Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the United Provinces Stamp (Amendment) Act, 1923, has been paid—

- (a) on the principal or original instrument as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of a sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would when received in the United Provinces, have been chargeable under the United Provinces Stamp (Amendment) Act, 1923, with a higher rate of duty be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate, or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.—*U. P. Act V of 1923.*

7. (1) No contract for sea insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894), shall be valid unless the same is expressed in a sea-policy.

(2) No sea-policy made for time shall be made for any time exceeding twelve months

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time, beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

8. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of one per centum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not:

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Governor General in Council.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

9. The Governor General in Council may, by rule or order published in the Gazette of India,—

Power to reduce, remit or compound duties.

- (a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments, belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and
- (b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For the Punjab only] -- In clause (a) of section 9 between the word "chargeable" and the word "and" shall be inserted the following proviso, namely:—  
*"Provided that with respect to instruments which are chargeable with duty under Schedule I-A, such reduction or remission may, by notification, be granted by the Governor in Council"*—*Punjab Act VIII of 1922.*

#### B -- Of stamps and the mode of using them.

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instrument are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

- (a) according to the provisions herein contained, or
- (b) when no such provision is applicable thereto, as the Governor General in Council may by rule direct.

(2) The rules made under sub-section (1) may, among other matters regulate,—

- (a) in the case of each kind of instrument—the description of stamps which may be used,
- (b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used,
- (c) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

Use of adhesive stamps. 11. The following instruments may be stamped with adhesive stamps, namely:—

- (a) instruments chargeable with the duty of one anna or half an anna, except part of bills of exchange payable otherwise than on demand and drawn in sets,
- (b) bills of exchange, cheques and promissory notes drawn or made out of British India;

- (c) entry as an advocate, vakil or attorney on the roll of a High Court ,
- (d) notorial acts , and
- (e) transfers by endorsement of shares in any incorporated company or other body corporate.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bombay only].—In clause (a) of section 11, before the words "one anna, the word "two annas" shall be inserted—*Bom. Act II of 1922.*

12. (1) (a) whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again , and

Cancellation of  
adhesive stamps

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

13 Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Instruments  
stamped with im-  
pressed stamps how  
to be written.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Only one instru-  
ment to be on same  
stamp.

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument writ-  
ten contrary to sec-  
tion 13 or 14 deemed  
unstamped.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon Denoting duty, the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the Governor General in Council may by rule prescribe.

*C.—Of the time of stamping instruments.*

Instruments executed in British India.

17. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments other than bills, cheques and notes executed out of British India.

18. (1) Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

19. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he present the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same.

Provided that,—

(a) if, at the time any such bill of exchange, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled,

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

## SECTION 19 A.

[Newly added by various Local Legislatures].

[For Madras only] .—

Payment of duty on certain instruments liable to increased duty under clause (bb) of section 3

19 A. Where any instrument has become chargeable in any part of British India other than the Presidency of Madras with duty under the stamp law in force in that part of British India and thereafter becomes chargeable with a higher rate of duty in the said Presidency under clause (bb) of the first proviso to section 3:—

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I A less the amount of duty, if any, already paid on it in British India ;
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and
- (iii) the provisions contained in clause (b) or clause (c), as the case may be, of the proviso to sub-section (3) of section 32 shall, with the necessary modifications, apply to such instrument, but the provisions contained in clause (a) of the said proviso shall not apply thereto —*Madras Act VI of 1922.*

[For Bengal only ]—

Payment of duty on certain instruments liable to increased duty in Bengal under clause (bb) of section 3.

19-A. Where any instrument has become chargeable in any part of British India other than Bengal with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in Bengal under clause (bb) of the first proviso to section 3—

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I A less the amount of duty, if any, already paid on it in British India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—*Bengal Act III of 1922*

[For Bombay only].—

Payment of duty on certain instruments liable to increased duty in Bombay Presidency.

19-A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Presidency of Bombay is executed out of the said Presidency and subsequently received in the said Presidency—

- (a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description

**S. 19-A.—Newly added by various Local Legislatures**

executed in the Presidency of Bombay less the amount of duty, if any, already paid on it in British India,

- (b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary, for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and
- (c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto.—*Bombay Act II of 1922.*

**[For Central Provinces only].—**

Payment of duty on certain instruments liable to increased duty in Central Provinces

19-A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Central Provinces is executed out of the said province and subsequently received in the said province—

- (a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Central Provinces less the amount of duty, if any, already paid on it in British India ;
- (b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it becomes chargeable with the higher duty, and
- (c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if it were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto.—*Central Provinces Act II of 1923.*

**[For the Punjab only].—**

Payment of duty on certain instruments liable to increased duty in the Punjab under clause (bb) of section 3.

19-A. Where any instrument has become chargeable in any part of British India other than the Punjab with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in the Punjab under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922,—

- (i) notwithstanding anything contained in the said proviso, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I A less the amount of duty, if any, already paid on it in British India.



**S. 19 A.—Newly added by various Local Legislatures.**

- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—*Punjab Act VIII of 1922.*

**[For Assam only] —**

**19 A.** Where any instrument has become chargeable in any part of British India other than Assam with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate or duty in Assam under clause (bb) of the first proviso to section 3—

—Payment of duty on certain instruments liable to increased duty in Assam under clause (bb) of section 3.

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty,—*Assam Act III of 1922,*

**[For United Provinces only].—**

Payment of duty on certain instrument liable to increased duty in the United Provinces under clause (bb) of section 3.

**19-A.** Where any instrument has become chargeable in any part of British India other than the United Provinces with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in the United Provinces under clause (bb) of the first proviso to section 3—

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A, less the amount of duty, if any, already paid on it in British India ;
- (ii) in addition to the stamps, if any, already affixed thereto, such instruments shall be stamped with the stamps necessary for the payment of the amount of the duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—*U.P. Act V of 1923.*

**D.—Of valuations for Duty.**

- 20.** (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency

Conversion of amount expressed in foreign currencies.

other than that of British India, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

(2) The Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1)

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument

Stock and marketable securities how to be valued.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

23. Where interest is expressly made payable by the terms of an instrument, such instrument, shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instruments reserving interest

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

23-A. (1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (c) of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Madras only].—In sub-section (1) of section 23-A after the word and figure "Schedule I", the words figure and letter "or article No. 4 (c) of Schedule I-A as the case may be" shall be inserted.—*Mad. Act, VI of 1922.*

[For the Punjab only].—In sub-section (1) of section 23-A, the letter "A" shall be added after the figure "I"—*Punjab Act VIII of 1922.*

24. Where any property is transferred to any person in consideration wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

*Explanation*—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

#### *Illustrations.*

(1) A owes B Rs. 1,000 A sells a property to B, the consideration being Rs. 500 and the relates of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500, which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Madras only].—In section 24 after the word and figure "Schedule I", the words, figures and letter " or Article 16 of Schedule I-A as the case may be " shall be inserted—*Mad. Act IV of 1922.*

[For the Punjab only].—In the proviso to section 24 for the full stop shall be substituted a comma followed by the words, figure and letter, " or Schedule I-A, as the case may be "—*Punjab Act VIII of 1922.*

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

- Valuation in case of annuity, etc
- (a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;
  - (b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of

such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due, and

- (c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient

Stamp where value of subject-matter is indeterminate.

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

- (a) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or,
- (b) when the lease has been granted by any other person, at twenty thousand rupees a year,

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Facts affecting duty to be set forth in instrument.

28. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration

(2) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the consideration paid by the sub-purchasers :

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

*E —Duty by whom payable.*

Duties by whom  
payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following articles of Schedule I namely :—

No. 2 ([Administration Bond]),

No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge,

No. 13 (Bill of exchange),

No. 15 (Bond),

No. 16 (Bottomry Bond),

No. 26 (Customs Bond),

No. 27 (Debenture),

No. 32 (Further Charge),

No. 34 (Indemnity-bond),

No. 40 (Mortgage deed),

No. 49 (Promissory-note),

No. 55 (Release),

No. 56 (Respondentia Bond),

No. 57 (Security-bond or Mortgage-deed),

No. 58 (Settlement),

No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),

No. 62 (b) Transfer of debentures, being marketable securities—whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 62 (c) (Transfer of any interest secured by a bond, mortgage, deed or policy of insurance),—

by the person drawing, making or executing such instrument

(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance,

(bb) in the case of a policy of fire-insurance—by the person issuing the policy,

(c) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee,

(d) in the case of a counterpart of a lease—by the lessor.

(e) in the case of an instrument of exchange—by the parties in equal shares;

(f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates; and

(g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole

property partitioned, or when the partition is made in execution of an order passed by a Revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs

# LEGISLATIVE CHANGES—PROVINCIAL.

[For Madras only].—In clause (a) of section 29 after the word and figure "Schedule I" the words, figure and letter "*or the corresponding articles of Schedule I-A as the case may be*" shall be inserted.—*Mad. Act VI of 1922.*

[For the Punjab only] —In clause (a) of section 29, the letter "A" shall be inserted between figure "I" and the word "namely".—*Pun. Act VIII of 1922,*

## SECTION 29-A.

[Newly added by the various Local Legislatures.]

[For Bengal only].—

Application of sections 23 A, 24 and 29 to instrument chargeable with duty under Schedule I-A. 29-A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A.—*Bengal Act III of 1922.*

[For Assam only].—

Application of sections 23 A, 24 and 29 to instrument chargeable with duty under Schedule I-A. 29-A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Assam Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A.—*Assam Act III of 1922.*

[For United Provinces only] —

Application of sections 23 A, 24 and 29 to instrument chargeable with duty under Schedule I A. 29-A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the United Provinces Stamp (Amendment) Act, 1923, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding article in Schedule I-A.—*U. P. Act V of 1923.*

30 Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

## CHAPTER III.

## ADJUDICATION AS TO STAMPS.

31. (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly.

Provided that—

- (a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable, and
- (b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

32. (1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

- (a) the Collector determines that it is already fully stamped, or
- (b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement, on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.



(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be, and if chargeable with duty shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped

Provided that nothing in this section shall authorise the Collector to endorse—

- (a) any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be,
- (b) any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India, or
- (c) any instrument chargeable with the duty of one anna or half an anna or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof, on paper not duly stamped.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bombay only].—In the proviso (c) to section 32, before the words “one anna”, the words “two annas” shall be inserted.—*Bom. Act II of 1922.*

[For Bengal only].—

In section 32 of the said Act—

- (1) in clause (a) of the proviso, after the words “any instrument” the words “other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3” shall be inserted;
- (2) the word “or” at the end of clause (b) of the proviso shall be omitted;
- (3) after clause (c) of the proviso the following shall be inserted, namely.—

“or

“(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Bengal.”—*Bengal Act III of 1922.*

[For Madras only].—

In clause (c) of the proviso to sub-section (3) of section 32, after the words “half an anna,” the following shall be inserted, namely.—

“or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas” —*Madras Act VI of 1922.*

[For the Punjab only].—

In section 32—

- (1) in clause (a) of the proviso, after the words “any instrument” the words “other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922” shall be inserted;
- (2) the word “or” at the end of clause (b) of the proviso shall be omitted;

(3) after clause (c) of the proviso the word "or" shall be added followed by a new clause (d) as follows —

"(d) *any instrument chargeable with duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922, and brought to him after the expiration of three months from the date on which it is first received in the Punjab* "—*Punjab Act VIII of 1922.*

[For Assam only] —

In section 32 of the said Act,—

- (1) in clause (a) of the proviso, after the words "any instrument" the words "*other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3*" shall be inserted;
- (2) the word "or" at the end of clause (b) of the proviso shall be omitted;
- (3) after clause (c) of the proviso the following shall be inserted, namely,—

"or

"(d) *any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Assam* "—*Assam Act III of 1922.*

[For the United Provinces only]—

In section 32 of the said Act—

- (1) in clause (a) of the proviso, after the words "any instrument", the words, "*other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3*" shall be inserted,
- (2) the word "or" at the end of clause (b) of the proviso shall be omitted,
- (3) after clause (c) of the proviso the following shall be inserted, namely,—

"or

"(d) *any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in the United Provinces* "—*U. P. Act V of 1923.*

## CHAPTER IV.

### INSTRUMENT NOT DULY STAMPED.

33. (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Examination and  
impounding of in-  
struments.

Provided that—

- (a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898,
- (b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

- (a) the Governor General in Council may determine what offices shall be deemed to be public offices, and
- (b) the Local Government may determine who shall be deemed to be persons in charge of public offices.

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Special provision  
as to unstamped  
receipts.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any person or by any public officer, unless such instrument is duly stamped.

Instruments not  
duly stamped in-  
admissible in evi-  
dence, etc.

Provided that—

- (a) any such instrument not being an instrument chargeable with a duty of one anna or half an anna only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;
- (b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against

him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it

- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped,
- (d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898,
- (e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[**For Bombay only**].—In the proviso (a) to section 35, before the words, " one anna," the words, " *two annas* " shall be inserted.—*Bom. Act II of 1922*,

[**For Madras only**].—In clause (a) of the proviso to section 35, after the words, " half anna only," the following shall be inserted, namely :—

" *or a mortgage of crop [article 34 (a) of Schedule I A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas* "—*Mad. Act VI of 1922*.

**36.** Where an instrument has been admitted, in evidence such admission shall not, except as provided in section 61 be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of instrument where not to be questioned.

**37.** The Governor General in Council may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Admission of improperly stamped instruments.

**38.** (1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument

Instruments impounded how dealt with.

together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

39. (1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks, fit, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

Collector's power to refund penalty paid under section 38, sub-section (1).

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

40 (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty of one anna or half an anna only or a bill of exchange or promissory note, he shall adopt the following procedure. —

Collector's power to stamp instruments impounded.

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

## LEGISLATIVE CHANGES—PROVINCIAL.

[For Bombay only].—In sub-section (1) of section 40, before the words, "one anna," the words, "two annas" shall be inserted.—*Bom. Act II of 1922.*

[For Madras only].—In sub-section (1) of section 40, after the words "half an anna only", the following shall be inserted, namely :—

"or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas"—*Mad. Act VI of 1922.*

41 If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna or half an anna only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution, or first execution and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under section 33 and 40, receive such amount and proceed as next hereinafter prescribed.

Instruments not duly stamped by accident.

## LEGISLATIVE CHANGES—PROVINCIAL.

[For Bombay only].—In section 41, before the words "one anna", the words, "two annas" shall be inserted.—*Bom. Act II of 1922.*

[For Madras only].—In section 41, after the words, "half an anna only", the following shall be inserted, namely :—

"or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas"—*Mad. Act VI of 1922*

42. (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the Proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Endorsement of instrument on which duty has been paid under section 35, 40 or 41.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it or such person may direct

Provided that—

(a) no instrument which has been admitted in evidence upon

so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate,

- (b) nothing in this section shall affect the Code of Civil Procedure section 144, clause 3.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument

Prosecution for  
offence against  
Stamp-law.

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with a intention of evading payment of the proper duty.

44. (1) When any duty or penalty has been paid under section 36, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument, was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

Persons paying  
duty or penalty may  
recover same in  
certain cases.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in an order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

45. (1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment refund such penalty wholly or in part.

Power to Revenue  
authority to refund  
penalty or excess  
duty in certain  
cases.

(2) Where, in the opinion of the Chief Controlling Revenue authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

Non-liability for loss of instruments sent under section 38.

46. (1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

Power of prayer to stamp bills, promissory notes and cheques received by him unstamped.

47. When any bill of exchange, promissory note or cheque chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamps and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, note or cheque.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

#### SECTION 48-A.

[Newly inserted by the various Local Legislatures.]

[For Bengal only].—

48 A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in Bengal with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid on such instrument.—*Bengal Act III of 1922.*

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Bengal.



## S. 48-A.—Newly inserted by the various Local Legislatures.

[For Assam only].—

48-A Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of any instrument chargeable in

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Assam.

Assam with a higher rate of duty under the Assam Stamp (Amendment) Act, 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the Assam Stamp (Amendment) Act, 1922, has been paid on such instrument.—*Assam Act III of 1922.*

[For United Provinces only].—

48-A. Notwithstanding anything contained in this Act, no certificate or endorsement

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in the United Provinces 1922 or 1923

under this Act in respect of an instrument chargeable in the United Provinces with a higher rate of duty under the United Provinces Stamp (Amendment) Act, 1923, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the United Provinces Stamp (Amendment) Act, 1923, has been paid on such instrument.—*U. P. Act V of 1923.*

## CHAPTER V.

## ALLOWANCES FOR STAMPS IN CERTAIN CASES.

49. Subject to such rules as may be made by the Local Govern-

Allowance for spoiled stamps.

ment as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and

if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :

(c) in the case of bills of exchange, cheques or promissory notes—

(1) the stamp on any bill of exchange or cheque signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

- (2) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :
- (3) the stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or being a promissory note, may have been delivered to the payee . provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill cheque or note :
- (d) the stamp used for an instrument executed by any party thereto which—
  - (1) has been afterwards found to be absolutely void in law from the beginning
  - (2) has been afterwards found unfit by reason of any error or mistake therein, for the purpose originally intended
  - (3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :
  - (4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended .
  - (5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose
  - (6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :
  - (7) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing stamp of not less value :

- (8) is inadvertently and undesignedly spoiled and in lieu where-  
of another instrument made between the same parties  
and for the same purpose is executed and duly stamped

Provided that, in the case of an executed instrument, no legal pro-  
ceeding has been commenced in which the instrument could or would  
have been given or offered in evidence and that the instrument is given  
up to be cancelled.

*Explanation.*—The certificate of the Collector under section 32 that  
the full duty with which an instrument is chargeable has been paid is an  
impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made.      50      The application for relief under section 49 shall be made within the following periods, that is to say,—

- (1) in the cases mentioned in clause (d) (5), within two months  
of the date of the instrument :
- (2) in the case of a stamped paper on which no instrument has  
been executed by any of the parties thereto, within six  
months after stamp has been spoiled
- (3) in the case of a stamped paper in which an instrument has been  
executed by any of the parties thereto, within six months  
after the date of the instrument, or, if it is not dated, within  
six months after the execution thereof by the person by  
whom it was first or alone executed :

Provided that,—

- (a) when the spoiled instrument has been for sufficient reasons  
sent out of British India, the application may be made  
within six months after it has been received back in  
British India,
- (b) when, from unavoidable circumstances, any instrument for  
which another instrument has been substituted cannot be  
given up to be cancelled within the aforesaid period, the  
application may be made within six months after the date  
of execution of the substituted instrument.

51. The Chief Controlling Revenue-authority or the Collector is  
empowered by the Chief Controlling Revenue autho-  
rity in this behalf may, without limit of time, make  
allowance for stamped papers used for printed forms  
of instruments by any banker or by any incorpora-  
ted company or other body corporate, if for any sufficient reason such  
forms have ceased to be required by the said banker, company or body  
corporate, provided that such authority is satisfied that the duty in  
respect of such stamped papers has been duly paid.

Allowance in case  
of printed forms no  
longer required by  
corporations.

52 (a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13,

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

- (a) other stamps of the same description and value, or
- (b) if required and he thinks fit, stamps of any other description to the same amount in value, or
- (c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

- (a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them, and
- (b) that he has paid the full price thereof, and
- (c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture: whichever shall be less

Allowance on renewal of certain debentures.

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the Governor General in Council may direct.

*Explanation*—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes.—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ,
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ,
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder , and
- (d) the alteration of the rate of interest or the dates of payment thereof.

## CHAPTER VI.

### REFERENCE AND REVISION

56. (1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 26 shall in all cases be subject to the control of the Chief Controlling Revenue authority.

Control of, and statement of case to, Chief Controlling Revenue-authority.

(2) If any Collector, acting under section 31, section 40, or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Chief Controlling Revenue - authority to High Court or Chief Court.

57. (1) The Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

- (a) if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council

or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be,

- (b) if it arises in the North-Western Provinces or Oudh or in Ajmer—to the High Court of Judicature for the North-Western Provinces,
  - (bb) if it arises in the territories for the time being administered by the Lieutenant Governor of Bihar and Orissa—to the High Court of Judicature at Patna,
  - (c) if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab or in British Baluchistan—to the High Court of Judicature at Lahore,
  - (d) if it arises in the Central Provinces—to the High Court of Judicature at Bombay
  - (dd) if it arises in Burma—to the High Court of Judicature at Rangoon.
  - (e) if it arises in any other part of British India—to the High Court of Judicature at Fort William.
- (2) Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail

58 If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Power of High Court or Chief Court to call for further particulars as to case stated.

59. (1) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

Procedure in disposing of case stated.

(2) The Court shall send to the Revenue authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

60. (1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under a proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue authority, he would, under section 57, refer the same.

Statement of case by other Courts to High Court or Chief Court.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior

61. (1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration

Revision of certain decisions of Courts regarding the sufficiency of stamps

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that—

- (a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty,

- (b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

## CHAPTER VII.

## CRIMINAL OFFENCES AND PROCEDURE.

Penalty for executing, etc., instrument not duly stamped.

## 62. (1) Any person—

- (a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped ; or
- (b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped ; or
- (c) voting or attempting to vote under any proxy not duly stamped ;

shall for every such offence be punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to cancel adhesive stamp.

63. Any person required by section 12 to cancel an adhesive stamp and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

64. Any person who, with intent to defraud the Government,—

- (a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth ; or,



(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances ; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act:

shall be punishable with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

65. Any person who,—

(a) being required under section 30 to give a receipt, refuses or neglects to give the same ; or

(b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value : gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered ;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy or making one not duly stamped.

66. Any person who,—

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance ; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy ;

shall be punishable with fine which may extend to two hundred rupees.

67. Any person drawing or executing a bill of exchange or a policy

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable

with fine which may extend to one thousand rupees.

Penalty for post-dating bills, and for other devices to defraud the revenue.

68. Any person who—

(a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing

a date subsequent to that on which such bill or note is actually drawn or made; or,

- (b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment, of such bill or note, or in any manner negotiates the same; or,
- (c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorised sale.

69. (a) Any person appointed to sell stamps who disobeys any rule made under section 74; and

- (b) any person not so appointed who sells or offers for sale any stamp (other than a one-anna or half an anna adhesive stamp);

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bombay only].—In clause (b) of section 69 before the words "one anna," the words "two annas" shall be inserted.—*Bom. Act II of 1922.*

70. (1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorises in that behalf.

Institution and conduct of prosecution.

(2) The Chief Controlling Revenue-authority, or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

71. No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Jurisdiction of Magistrates.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

Place of trial.

## CHAPTER VIII.

### SUPPLEMENTAL PROVISIONS.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge.

Books, etc., to be open to inspection.

Powers to make rules relating to sale of stamps.

74. The Local Government, subject to the control of the Governor General in Council, may make rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons :

Provided that such rules shall not restrict the sale of one anna or half an anna adhesive stamps.

### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bombay only].—In the proviso to section 74, before the words, "one anna," the words, "two annas," shall be inserted.—*Bom. Act 11 of 1922.*

75. The Governor General in Council may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Power to make rules generally to carry out Act.

76. (1) All rules made under this Act, other than rules made under section 74 shall be published in the Gazette of India, and all rules made under section 74 shall be published in the local Gazette.

Publication of rules.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

Delegation of certain powers.

76-A. The Local Government may, by notification in the local official Gazette, delegate—

- (a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority; and
- (b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1) (2), 56 (1) and 70 (2) to such subordinate Revenue-authority as may be specified in the notification.

Saving as to court-fees.

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

#### LEGISLATIVE CHANGES—PROVINCIAL.

[For Bengal; the Punjab; Assam and the United Provinces].—At the beginning of section 77, the following shall be inserted, namely :—

*“ Except for the provisions as to copies contained in section 6-A.”*

78. Every Local Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

Act to be translated and sold cheaply.

79. [Repealed by Act X of 1914.]

# SCHEDULE I.

## STAMP DUTY ON INSTRUMENTS.

(See section 3.)

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>1. <b>ACKNOWLEDGMENT</b> of  a debt exceeding twenty  rupees in amount or value,  written or signed by, or  on behalf of, a debtor in  order to supply evidence of  such debt in any book  (other than a banker's pass-  book) or on a separate  piece of paper when such  book or paper is left in the  creditor's possession : pro-  vided that such acknow-  ledgment does not contain  any promise to pay the  debt or any stipulation  to pay interest or to  deliver any goods or other  property.</p>	<p><i>Imperial</i> ... Anna One.</p>
<p>2. <b>ADMINISTRATION-BOND</b>,  including a bond given  under section 256 of the  Indian Succession Act,  1865, section 6 of the  Government Saving Banks  Act, 1873, section 78 of  the Probate and Adminis-  tration Act, 1881, or  section 9 or section 10 of  the Succession Certificate  Act, 1889,—</p>	<p><i>Imperial, Bombay, C. Prov., Bengal,  Madras, Punjab, Assam, U. Prov.</i>  —The same duty as a Bond  (No. 15) for such amount.</p>
<p>(a) Where the amount does  not exceed Rs. 1,000 ...</p>	

(b) in any other case ... *Imperial* ... Rupees Five.

*For Madras, Bengal, Bombay, Punjab, U. Prov., C. Prov., Assam—*  
Rupees Ten.

3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording an adoption or conferring authority to adopt. *Imperial* ... Rupees Ten.

*For Madras* ... Rupees Fifteen.

*For Bengal, Bombay, Punjab, C. Prov., Assam* ... Rupees Twenty.

ADVOCATE. See ENTRY AS AN ADVOCATE (No. 30).

4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing. *Imperial* ... Rupee One.

*For Madras, Bengal, Bombay, Punjab, C. Prov., U. Prov., Assam—*  
Rupees Two.

*Exemptions.*

Affidavit or declaration in writing when made—

(a) as a condition of enlistment under the Indian Articles of War ;

(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or

(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.

5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—

(a) if relating to the sale of a bill of exchange. *Imperial* ... Annas Two.

*For Bombay, Punjab.—Annas Four.*

- (b) if relating to the sale of a Government security, or share in an incorporated company or other body corporate.

*For Bengal, Madras, C. Prov., Assam, U. Prov.*—Annas Three.

*Imperial*:—Subject to a maximum of ten rupees, **one anna** for every Rs. 10,000 or part thereof, of the value of the security or share.

*For Bombay*.—Subject to a maximum of Rs. 20 **two annas** for every Rs. 10,000 or part thereof, of the value of the security or share.

*For C. Prov., Bengal, Madras, Assam, U. Prov.*—Subject to a maximum of Rs. 15 **one and half anna** for every Rs. 10,000 or part thereof, of the value of the security or share.

*For Punjab*.—Subject to a maximum of Rs. 15 **two annas** for every Rs. 10,000 or part thereof, of the value of the security or share.

- (c) if not otherwise provided for

*Imperial* ... Annas Eight

*For Bombay, C. Prov., Punjab*.—Rupee One.

*For Bengal, Madras, Assam, U. Prov.*—Annas Twelve.

### *Exemptions.*

#### Agreement or memorandum of agreement—

- (a) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ;
- (b) made in the form of tenders to the Government of India for or relating to any loan ;
- (c) made under the European Vagrancy Act, 1874, section 17.

## [FOR ASSAM ONLY.]

- (d) Executed for service or the performance of work in any estate whether held by one person or by more persons than one as co-owners and whether in one or more blocks and situated in Assam where the advance given under such agreement does not exceed Rupees Fifty. *For Assam only.—Annas Four.*

## AGREEMENT TO LEASE.

See LEASE (No. 35).

6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that it is say, any instrument evidencing an agreement relating to—

- (1) the deposit of title-deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), or,
- (2) the pawn or pledge of moveable property,

where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or existing or future debt—



(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement ;

*Imperial.*—The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.

*For Bengal, Madras, Punjab and Assam*—

*For U. Prov.*—

	If drawn singly.	If drawn in set of two for each part of the set.	If drawn in set of three for each part of the set.	For U. Prov.		
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
(i) when the amount of the loan or debt does not exceed Rs. 200	0 4 6	0 3 0	0 1 6	0 3 0	0 2 0	0 1 0
(ii) when it exceeds Rs. 200 but does not exceed Rs. 400	0 9 0	0 4 6	0 3 0	0 8 0	0 4 0	0 2 6
" 400 " 600	0 13 6	0 7 6	0 4 6	0 12 0	0 6 0	0 4 0
" 600 " 800	1 2 0	0 9 0	0 6 0	1 0 0	0 8 0	0 5 0
" 800 " 1,000	1 6 6	0 12 0	0 7 6	1 4 0	0 10 0	0 7 0
" 1,000 " 1,200	1 11 0	0 13 6	0 9 0	1 8 0	0 12 0	0 8 0
" 1,200 " 1,600	2 4 0	1 2 0	0 12 0	2 0 0	1 0 0	0 10 0
" 1,600 " 2,500	3 6 0	1 11 0	1 2 0	3 0 0	1 8 0	1 0 0
" 2,500 " 5,000	6 12 0	3 6 0	2 4 0	6 0 0	3 0 0	2 0 0
" 5,000 "	10 0 0	5 1 0	3 6 0	9 0 0	4 8 0	3 0 0
[Rs. 10 2 0 for Punjab and Madras only.]						
" 7,500	13 8 0	6 12 0	4 8 0	12 0 0	6 0 0	4 0 0
" 10,000	20 4 0	10 2 0	6 12 0	18 0 0	9 0 0	6 0 0
" 15,000	27 0 0	13 8 0	9 0 0	24 0 0	12 0 0	8 0 0
" 20,000	33 12 0	16 14 0	11 4 0	30 0 0	15 0 0	10 0 0
" 25,000	40 8 0	20 4 0	13 8 0	36 0 0	18 0 0	12 0 0
an for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	13 8 0	6 12 0	4 8 0	12 0 0	6 0 0	4 0 0

- (b) if such loan or debt is repayable not more than three months from the date of such instrument.

*Imperial.*—Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.

*For Bengal, Madras, Punjab, Assam.*—Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured. [Note: The words "stamp duty of a quarter anna should be reckoned as half anna and three-quarter anna as one anna" are added by Madras Act VI of 1923.]

*Exemption.*

Instrument of pawn or pledge of goods if unattested.

*For U. Prov.*—Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.

**7. APPOINTMENT IN EXECUTION OF A POWER,** whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.

*Imperial* ... Rupees Fifteen.

*For Bengal, Madras, Punjab, Assam.* Rupees Twenty-five.

*For Bombay.*—

(a) of Trustees ... Fifteen Rupees only.

(b) of Property, moveable or immoveable. Thirty Rupees only.

*For United Provinces.*—

(a) Where the value of the property does not exceed Rs. 1,000. Rupees Fifteen only.

(b) In any other case. Rupees Twenty-five only.

**8. APPRAISEMENT OR VALUATION** made otherwise than under an order of the Court in the course of a suit—

- (a) where the amount does not exceed Rs. 1,000.

*Imperial, Bombay, C. Prov., U. Prov.*—The same duty as a Bond (No. 15) for such amount.

*For Bengal, Madras, Punjab, Assam.*—The same duty as a Bottomry Bond (No. 16) for such amount.

(b) in any other case ... *Imperial* ... Rupees Five.

*For Bombay, Punjab* ... Rupees Ten.

*Exemptions.*

- (a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

*For C. Prov., Bengal, Madras, Assam, U. Prov.* ... Rupees Seven and annas eight.

- (b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).

*Imperial* ... Rupees Five.

*For Bengal, Madras, Assam, U. Prov.—*  
Rupees Seven and annas eight.

*For Bombay* ... Rupees Ten.

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*Exemption.*

Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.

10. ARTICLES OF ASSOCIATION OF A COMPANY

*Imperial* ... Rupees Twenty-five.

*For Bengal, Madras, C. Prov., U. Prov., Assam* ... Rupees Fifty.

*For Bombay—*

- (a) Where the company has no share capital or the nominal share capital does not exceed Rs. 2,500—Rupees Twenty-five.

*Exemption.*

Articles of any Association not formed for profit and registered under section 29 of the Indian Companies Act, 1882.

*See also* MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).

(b) Where the nominal share capital exceeds Rs. 2,500 but does not exceed Rs. 1,00,000  
Rupees Fifty.

(c) Where the nominal share capital exceeds Rs. 1,00,000  
Rupees One hundred.

*For Punjab—*

(a) Where the authorized share capital does not exceed Rs. 1,00,000...Rupees Twenty-five.

(b) In other cases...Rupees Fifty.

11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.

*Imperial ...* Rupees Two hundred and fifty.

*For Madras ...* Rupees Three hundred and seventy-five.

ASSIGNMENT. *See* CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.

ATTORNEY. *See* ENTRY AS AN ATTORNEY (No. 30), and POWER OF ATTORNEY (No. 48).

AUTHORITY TO ADOPT. *See* ADOPTION-DEED (No. 3).

12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—

(a) Where the amount or value of the property to which the award relates as set forth in such award does not exceeds Rs. 1,000 ;

*Imperial, Bengal, Punjab, Assam, U. Prov.*—The same duty as a Bond (No. 15) for such amount.

*For C. Prov.*—The same duty as a Bond (No. 15) for such amount or value.

*For Madras.*—The same duty as a Bottomry Bond (No. 16) for such amount.

*For Bombay.*—(a) and (b)—The same duty as a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to a maximum of *Rupees Twenty*.

(b) in any other case ... *Imperial.*—Rupees Five.

*For C. Prov.*—Rs. 7-8-0.

*For Bengal, Punjab, Assam.*—(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000 Rs. 7-8-0

#### *Exemption.*

Award under the Bombay District Municipal Act, 1873, section 81, or the Bombay Hereditary Offices Act, 1874, section 18.

And for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000—8 annas subject to a maximum of *Rupees Fifty*.

*For Madras.*—(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000 Rs. 10-0-0

And for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000—8 annas subject to a maximum of *Rupees Fifty*.

*For U. Prov.*—(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000 Rs. 7-8-0

(c) In any other case...*Rupees Ten*.

### 13. BILL OF EXCHANGE [as defined by S. 2 (2) and (3)] not being a BOND, bank note or currency-note—

(a) Where payable on demand. *Imperial*—Anna One.

(b) where payable otherwise than on demand but not more than one year after date or sight—

	If drawn singly.			If drawn in set of two, for each part of the set.			If drawn in set of three, for each part of the set.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
if the amount of the bill or note does not exceed Rs. 200.	0	3	0	0	2	0	0	1	0
if it exceeds Rs. 200 and does not exceed Rs. 400.	0	6	0	0	3	0	0	2	0
if it exceeds Rs. 400 and does not exceed Rs. 600.	0	9	0	0	5	0	0	3	0
if it exceeds Rs. 600 and does not exceed Rs. 800.	0	12	0	0	6	0	0	4	0
if it exceeds Rs. 800 and does not exceed Rs. 1,000.	0	15	0	0	8	0	0	5	0
if it exceeds Rs. 1,000 and does not exceed Rs. 1,200.	1	2	0	0	9	0	0	6	0
if it exceeds Rs. 1,200 and does not exceed Rs. 1,600.	1	8	0	0	12	0	0	8	0
if it exceeds Rs. 1,600 and does not exceed Rs. 2,500.	2	4	0	1	2	0	0	12	0
if it exceeds Rs. 2,500 and does not exceed Rs. 5,000.	4	8	0	2	4	0	1	8	0
if it exceeds Rs. 5,000 and does not exceed Rs. 7,500.	6	12	0	3	6	0	2	4	0
if it exceeds Rs. 7,500 and does not exceed Rs. 10,000.	9	0	0	4	8	0	3	0	0
if it exceeds Rs. 10,000 and does not exceed Rs. 15,000.	13	8	0	6	12	0	4	8	0
if it exceeds Rs. 15,000 and does not exceed 20,000.	18	0	0	9	0	0	6	0	0
if it exceeds Rs. 20,000 and does not exceed 25,000.	22	8	0	11	4	0	7	8	0
if it exceeds Rs. 25,000 and does not exceed 30,000.	27	0	0	13	8	0	9	0	0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	9	0	0	4	8	0	3	0	0

(c) where payable at more than one year after date or sight:

*Imperial.*—The same duty as a Bond (No. 15) for the same amount.

# **14. BILL OF LADING** (including a through bill of lading).

## *Exemptions.*

(a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under

*Imperial* ... Annas Four.  
*For Bengal, Madras, Assam, U. Prov.*—Annas Six.  
*For Bombay, Punjab.*—Annas Eight.

*N.B.*—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.

the Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.

- (b) Bill of lading when executed out of British India and relating to property to be delivered in British India.

**15. BOND** [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court Fees Act, 1870,—

where the amount or value secured does not exceed Rs. 10 ;

*Imperial—* Annas Two.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—*Annas Two.

where it exceeds Rs. 10 and does not exceed Rs. 50.

*Imperial—* Annas Four.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—*Annas Four.

where it exceeds Rs. 50 and does not exceed Rs. 100.

*Imperial—* Annas Eight.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—*Annas Eight.

where it exceeds Rs. 100 and does not exceed Rs. 200.

*Imperial—* Rupee One.

*For Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.—* Rupee One.

*For Madras.—*Rupee One and annas four.

where it exceeds Rs. 200 and does not exceed Rs. 300.

*Imperial—*Rupee One and annas eight.

*For Bombay.—*Rupees Two and annas four.

*For U. Prov.—*Rupee One and annas twelve.

*For C. Prov., Bengal, Madras, Punjab, Assam.—*Rupee One and annas fourteen.

where it exceeds Rs. 300 and does not exceed Rs. 400.	<p><i>Imperial</i>—Rupees Two.</p> <p><i>For Bombay</i>.—Rupees Three.</p> <p><i>For C. Prov., Bengal, Madras, Punjab, Assam</i>.—Rupees Two and annas eight.</p> <p><i>For U. Prov.</i>—Rupees Two and annas seven.</p>
where it exceeds Rs. 400 and does not exceed Rs. 500.	<p><i>Imperial</i>—Rupees Two and annas eight.</p> <p><i>For Bombay</i>.—Rupees Three and annas twelve.</p> <p><i>For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.</i>—Rupees Three and annas two.</p>
where it exceeds Rs. 500 and does not exceed Rs. 600.	<p><i>Imperial</i>—Rupees Three.</p> <p><i>For U. Prov.</i>—Rupees Three and annas thirteen.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam</i>.—Rupees Four and annas eight.</p>
where it exceeds Rs. 600 and does not exceed Rs. 700.	<p><i>Imperial</i>—Rupees Three annas eight.</p> <p><i>For U. Prov.</i>—Rupees Four and annas eight.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam</i>.—Rupees Five and annas four.</p>
where it exceeds Rs. 700 and does not exceed Rs. 800.	<p><i>Imperial</i>—Rupees Four.</p> <p><i>For U. Prov.</i>—Rupees Five and annas three.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam</i>.—Rupees Six.</p>
where it exceeds Rs. 800 and does not exceed Rs. 900.	<p><i>Imperial</i>—Rupees Four and annas eight.</p> <p><i>For U. Prov.</i>—Rupees Five and annas fourteen.</p>



where it exceeds Rs. 900 and does not exceed Rs. 1,000.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.—Rupees Six and annas twelve.*

*Imperial—Rupees Five.*

*For U. Prov.—Rupees Six and annas nine.*

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.—Rupees Seven and annas eight.*

and for every Rs. 500 or part thereof in excess of Rs. 1,000.

*Imperial—Rupees Two and annas eight.*

*For U. Prov.—Rupees Three and annas four.*

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.—Rupees Three and annas twelve.*

*See ADMINISTRATION BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).*

#### *Exemptions.*

Bond, when executed by—

- (a) headman nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;
- (b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

**16. BOTTOMRY BOND**, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security

*Imperial, Bombay, C. Prov., U. Prov.—The same duty as a Bond (No. 15) for the same amount.*

of the ship to enable him to preserve the ship or prosecute her voyage.

*For Bengal, Madras, Punjab, Assam :—*

Where the amount or value secured does not exceed Rs. 10.	As. 3.
Where it exceeds Rs. 10 and does not exceed Rs. 50.	As. 6.
Where it exceeds Rs. 50 and does not exceed Rs. 100.	As. 12.
Where it exceeds Rs. 100 and does not exceed Rs. 200.	Rs. 1-8-0.
Where it exceeds Rs. 200 and does not exceed Rs. 300.	Rs. 2-4-0.
Where it exceeds Rs. 300 and does not exceed Rs. 400.	Rs. 3-0-0.
Where it exceeds Rs. 400 and does not exceed Rs. 500.	Rs. 3-12-0.
Where it exceeds Rs. 500 and does not exceed Rs. 600.	Rs. 4-8-0.
Where it exceeds Rs. 600 and does not exceed Rs. 700.	Rs. 5-4-0.
Where it exceeds Rs. 700 and does not exceed Rs. 800.	Rs. 6-0-0.
Where it exceeds Rs. 800 and does not exceed Rs. 900.	Rs. 6-12-0.
Where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Rs. 7-8-0.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Rs. 3-12-0.

17. CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.

*Imperial.*—Rupees Five.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Seven and annas eight.

*See also* RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).

18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public

auction by a Civil or Revenue Court, or Collector or other Revenue-officer—

- (a) where the purchase-money does not exceed Rs. 10;

*Imperial*.—Annas Two.

*For Bombay*.—Annas Four.

*For C. Prov., Bengal, Madras, Punjab, Assam*.—Annas Three.

- (b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;

*Imperial*.—Annas Four.

*For Bombay*.—Annas Eight.

*For C. Prov., Bengal, Madras, Punjab, Assam*.—Annas Six.

- (c) in any other case ...

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam*.—The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.

- 19. CERTIFICATE OR OTHER DOCUMENT** evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.

*Imperial*.—Two annas.

See also LETTER OF ALLOTMENT OF SHARES (No. 36).

- 20. CHARTER PARTY**, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.

*Imperial*.—Rupee One.

*For Bengal, Bombay, Madras, Punjab, Assam, U. Prov*.—Rupees Two.

21. **CHEQUE** [as defined by section 2 (7)]. *Imperial.*—Anna One.
22. **COMPOSITION-DEED**, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license for the benefit of his creditors. *Imperial.*—Rupees Ten.  
*For Bengal, Punjab, Assam, U. Prov.*—Rupees Twelve and annas eight.  
*For Madras.*—Rupees Fifteen.  
*For Bombay.*—Rupees Twenty.
23. **CONVEYANCE** [as defined by section 2 (10)] not being a **TRANSFER** charged or exempted under (No. 62)—
- where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50 ; *Imperial.*—Annas Eight.  
*For Bombay, C. Prov., U. Prov.*—Annas Eight.  
*For Bengal, Madras, Punjab, Assam.*—Annas Twelve.
- where it exceeds Rs. 50 but does not exceed Rs. 100. *Imperial.*—Rupee One.  
*For Bombay, C. Prov., U. Prov.*—Rupee One.  
*For Bengal, Madras, Punjab, Assam.*—Rupee One and annas eight.
- where it exceeds Rs. 100 but does not exceed Rs. 200. *Imperial.*—Rupees Two.  
*For Bombay, C. Prov., U. Prov.*—Rupees Two.  
*For Bengal, Madras, Punjab, Assam.*—Rupees Three.
- where it exceeds Rs. 200 but does not exceed Rs. 300. *Imperial.*—Rupees Three.  
*For U. Prov.*—Rupees Three and annas eight.  
*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.*—Rupees Four and annas eight.

where it exceeds Rs. 300 but does not exceed Rs. 400.	<i>Imperial</i> —Rupees Four. <i>For U. Prov.</i> —Rupees Four and annas fourteen. <i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —Rupees Six.
where it exceeds Rs. 400 but does not exceed Rs. 500.	<i>Imperial</i> —Rupees Five. <i>For U. Prov.</i> —Rupees Six and annas four. <i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —Rupees Seven and annas eight.
where it exceeds Rs. 500 but does not exceed Rs. 600.	<i>Imperial</i> —Rupees Six. <i>For U. Prov.</i> —Rupees Seven and annas ten. <i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —Rupees Nine.
where it exceeds Rs. 600 but does not exceed Rs. 700.	<i>Imperial</i> —Rupees Seven. <i>For U. Prov.</i> —Rupees Nine. <i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —Rupees Ten and annas eight.
where it exceeds Rs. 700 but does not exceed Rs. 800.	<i>Imperial</i> —Rupees Eight. <i>For U. Prov.</i> —Rupees Ten and annas six. <i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —Rupees Twelve.
where it exceeds Rs. 800 but does not exceed Rs. 900.	<i>Imperial</i> —Rupees Nine. <i>For U. Prov.</i> —Rupees Eleven and annas twelve. <i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —Rupees Thirteen and annas eight.

where it exceeds Rs. 900  
but does not exceed Rs.  
1,000.

*Imperial*—Rupees Ten.

*For U. Prov.*—Rupees Thirteen and annas two.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam*—Rupees Fifteen.

and for every Rs. 500 or part thereof in excess of Rs. 1,000.

*Imperial*—Rupees Five.

*For U. Prov.*—Rupees Six and annas eight.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.*—Rupees Seven and annas eight.

**[FOR PUNJAB ONLY :—**Provided that a conveyance of immoveable property situated within a Municipality, cantonment or Notified Area shall be chargeable with a stamp duty at double the rate hereinbefore provided.

*Explanation*—For the purpose of this proviso, "Notified Area" means an area in regard to which a notification has been issued or may hereafter be issued under section 241 of the Punjab Municipal Act, 1911; and in which the total population is according to the latest census more than five thousand in number.]

#### *Exemption.*

Assignment of copyright by entry made under the Indian Copyright Act, 1847, section 5.

#### **CO-PARTNERSHIP-DEED.**

See PARTNERSHIP (No. 46).

**24. COPY OR EXTRACT** certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—

- (i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee ;
- |  |     |               |
|--|-----|---------------|
| <i>Imperial</i>  | ... | Annas Eight.  |
| <i>For Bombay</i>  | ... | Rupee One.    |
| <i>For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.</i> | ... | Annas Twelve. |

- (ii) in any other case ...
- |                   |     |             |
|-------------------|-----|-------------|
| <i>Imperial</i>   | ... | Rupee One.  |
| <i>For Bombay</i> | ... | Rupees Two. |

*Exemptions.*

- (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
- (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.
- |  |                            |
|--|----------------------------|
| <i>For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.</i> | Rupee One and annas eight. |
|--|----------------------------|

**25. COUNTERPART OR DUPLICATE** of any instrument chargeable with duty and in respect of which the proper duty has been paid,—

- (a) if the duty with which the original instrument is chargeable does not exceed one rupee ;
- |  |   |
|--|---|
| <i>Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.</i> | —The same duty as is payable on the original. |
|--|---|

- (b) in any other case ... *Imperial*—Rupee One

*For Bombay.*—Rupees Two.

*Exemption.*

Counterpart of any lease granted to a cultivator when such lease is exempted from duty.

*For Bengal, Madras, Punjab, Assam.*—Rupee One and annas eight.

*For U. Prov.*—(b) In any other case not falling within S. 6-A.—Rupee One and annas eight.

**26. CUSTOMS BOND—**

- (a) where the amount does not exceed Rs. 1,000.

*Imperial, Bombay, C. Prov., U. Prov.*—The same duty as a Bond (No. 15) for such amount.

(b) in any other case.

*For Bengal, Madras, Punjab, Assam.*—  
The same duty as a Bottomry  
Bond (No. 16) for such amount.

*Imperial.*—Rupees Five.

*For Bombay, Bengal, Madras, Punjab,  
Assam, U. Prov.*—Rupees Ten.

**27. DEBENTURE** (whether  
a mortgage deben-  
ture or not), being a  
marketable security  
transferable—

(a) by endorsement or by a  
separate instrument of  
transfer.

*Imperial, Bombay, C. Prov, U. Prov.*—  
The same duty as a Bond (No. 15)  
for the same amount.

*For Bengal, Madras, Punjab, Assam.*—  
The same duty as a Bottomry Bond  
(No. 16) for the same amount.

(b) by delivery

...

*Imperial, Bombay, C. Prov., Bengal,  
Madras, Punjab, Assam.*—The  
same duty as a Conveyance  
(No. 23) for a consideration equal  
to the face amount of the deben-  
ture.

*For U. Prov.*—When the face amount  
of the debenture does not exceed  
Rs. 100. Rs. 1-4-0.

When it exceeds Rs. 100 but does  
not exceed Rs. 200. Rs. 2-8-0.

When it exceeds Rs. 200. The same  
duty as a Conveyance  
(No. 23) for a consi-  
deration equal to the  
face amount of the  
Debenture.

*Explanation*—The term  
'debenture' includes  
any interest coupons  
attached thereto, but  
the amount of such  
coupons shall not be  
included in estimating  
the duty.

*Exemption.*

A debenture issued by an  
incorporated company  
or other body corporate



in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

*See also* BOND (No. 15) and SECTIONS 8 and 55.

#### DECLARATION OF ANY TRUST.

*See* TRUST (No. 64).

#### 28. DELIVERY ORDER IN RESPECT *Imperial—Anna One.*

OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.

#### DEPOSIT OF TITLE-DEEDS.

[*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6.)]

#### DISSOLUTION OF PARTNERSHIP.

*See* PARTNERSHIP (No. 46).

#### 29. DIVORCE—Instrument of, that *Imperial—One rupee.*

is to say, any instrument by which any person effects the dissolution of his marriage.

*For* Bombay, Bengal, Madras, Assam.—Two rupees.

*For* Punjab, U. Prov.—Five rupees.

**DOWER**—Instrument of. See SETTLEMENT (No. 58).

**DUPLICATE**—See COUNTER-PART (No. 25).

**30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT** in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioner's Act, 1884—

(a) in the case of an Advocate or Vakil.

*Imperial, Bombay, U. Prov.*—Five hundred rupees.

*For Bengal, Punjab, Assam.*—Seven hundred and fifty rupees.

*For Madras.*—Six hundred and twenty-five rupees.

(b) in the case of an Attorney.

*Imperial* — Two hundred and fifty rupees.

*For Bombay, Bengal, Punjab, Assam, U. Prov.*—Five hundred rupees.

*For Madras.*—Three hundred and twelve rupees and eight annas.

*Exemption.*

Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.

**31. EXCHANGE OF PROPERTY**—Instrument of.

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.

**EXTRACT.** See COPY (No. 24).

**32. FURTHER CHARGE —**

Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—

- (a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.

- (b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—

- (i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.

- (ii) if possession is not so given.

*Imperial, Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.*—The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.

*For Madras:*—The same duty as a Bottomry Bond (No. 16) for the amount of the further charge secured by such instrument.

**33. GIFT**—Instrument of, not being a SETTLEMENT (No. 58) or WILL OR TRANSFER (No. 62).

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

**HIRING AGREEMENT** or agreement for service. See AGREEMENT (No. 5).

## 34. INDEMNITY BOND

... *Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*  
 —The same duty as a Security-Bond (No. 57) for the same amount.

## INSPECTORSHIP-DEED.—

*See* COMPOSITION-DEED  
 (No. 22).

INSURANCE. *See* POLICY  
 OF INSURANCE (No. 47).35. LEASE, including an  
 under-lease or sub-lease  
 and any agreement to  
 let or sub-let—

- (a) where by such lease the  
 rent is fixed and no  
 premium is paid or  
 delivered—

## IMPERIAL, BOMBAY, C. PROV.

- (i) where the lease purports  
 to be, for a term of  
 less than one year ;

- (ii) where the lease purports  
 to be for a term of  
 not less than one year  
 but not more than three  
 years ;

- (iii) where the lease pur-  
 ports to be for a term  
 in excess of three years ;

- (iv) where the lease does  
 not purport to be for  
 any definite term ;

- (v) where the lease pur-  
 ports to be in per-  
 petuity ;

## IMPERIAL, BOMBAY, C. PROV.

The same duty as a Bond (No. 15)  
 for the whole amount payable or  
 deliverable under such lease.

The same duty as a Bond (No. 15)  
 for the amount or value of the  
 average annual rent reserved.

The same duty as a Conveyance  
 (No. 23) for a consideration equal  
 to the amount or value of the  
 average annual rent reserved.

The same duty as a Conveyance  
 (No. 23) for a consideration equal  
 to the amount or value of the  
 average annual rent which would  
 be paid or delivered for the first ten  
 years if the lease continued so  
 long.

The same duty as a Conveyance (No.  
 23) for a consideration equal to  
 one-fifth of the whole amount of  
 rents which would be paid or  
 delivered in respect of the first  
 fifty years of the lease.

FOR BENGAL, MADRAS, PUNJAB,  
ASSAM & THE U. PROV.

- (i) where the lease purports to be for a term of less than one year ;

*For Bengal, Madras, Punjab, Assam.*—The same duty as a Bottomry Bond (No. 16) for the whole amount payable or deliverable under such lease.

*For U. Prov.*—The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

- (ii) where the lease purports to be for a term of not less than one year, but not more than five years ;

*For Bengal, Madras, Punjab, Assam.*—The same duty as a Bottomry Bond (No. 16) for the amount or value of the average annual rent reserved.

*For U. Prov.*—The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.

- (iii) where the lease purports to be for a term exceeding five years but not exceeding ten years ;

*For Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.

- (iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years ;

*For Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.

- (v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years ;

*For Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.

- (vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years ;

*For Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.

**FOR BENGAL, MADRAS, PUNJAB,  
ASSAM & THE U. PROV.**

(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity ;

*For Bengal, Punjab, Assam, U. Prov.—*

The same duty as a Conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of the rents which would be paid or delivered in respect of the first fifty years of the lease.

*For Madras.—*The same duty as a Conveyance (No. 23) for a consideration equal to one-sixth of the whole amount of the rents which would be paid or delivered in respect of the first fifty years of the lease.

(viii) where the lease does not purport to be for any definite term ;

*For Bengal, Madras, Punjab, Assam, U. Prov.—*The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.

(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved ;

*For Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—*The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.

*Imperial, Bombay, C. Prov.—*The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered :

*Exemptions.*

(a) Lease, executed in the case of a cultivator and for the purposes of

Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

- (b) Leases of fisheries granted under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered :

Provided that, in any case in which an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed twelve annas.

36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company or in respect of any loan to be raised by any company or proposed company.

*Imperial*:—Two annas.

*See also* CERTIFICATE OR OTHER DOCUMENT (No. 19).

37. LETTER OF CREDIT, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn.

*Imperial*:—Two annas.

LETTER OF GUARANTEE  
*See* AGREEMENT (No. 5).

38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.

*Imperial*.—Rupees Ten.

*For Bengal, Punjab, Assam, U. Prov.*—Rupees Twelve and annas eight.

*For Madras*.—Rupees Fifteen.

### 39. MEMORANDUM OF ASSOCIATION OF A COMPANY—

(a) if accompanied by articles of association under section 37 of the Indian Companies Act, 1882; *Imperial.*—Rupees Fifteen.  
*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Thirty.

(b) if not so accompanied ... *Imperial.*—Rupees Forty.  
*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Eighty.

#### *Exemption.*

Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.

### 40. MORTGAGE-DEED, not being an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6), BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), or SECURITY-BOND (No. 57)—

(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given. *Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.

(b) when possession is not given or agreed to be given as aforesaid; *Imperial, Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.*—The same duty as a Bond (No. 15) for the amount secured by such deed.

*For Madras.*—The same duty as a Bottomry Bond (No. 16) for the amount secured by such deed.



*Explanation.*—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.

- (c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped,

for every sum secured not exceeding Rs. 1,000 ;

*Imperial.*—Annas Eight.

*For Bombay.*—Rupee One.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Annas Twelve.

and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.

*Imperial.*—Annas Eight.

*For Bombay.*—Rupee One.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Annas Twelve.

### *Exemptions.*

- (1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.
- (2) Letter of hypothecation accompanying a bill of exchange.

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—

- (a) when the loan is repayable not more than three months, from the date of the instrument—for every sum secured not exceeding Rs. 200 ;

*Imperial.*—Anna One.

*For Bombay, Madras.*—Annas Two

*For Bengal, Punjab, Assam.*—Anna One and pies six.

and for every Rs. 200 or part thereof secured in excess of Rs. 200 ;

*Imperial.*—Anna One.

*For Bombay, Madras.*—Annas Two.

*For Bengal, Punjab, Assam.*—Anna One and pies six.

- (b) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—

for every sum secured not exceeding Rs. 100 ;

*Imperial.*—Annas Two.

*For Bombay.*—Annas Four.

*For Bengal, Madras, Punjab, Assam.*—Annas Three.

and for every Rs. 100 or part thereof secured in excess of Rs. 100.

*Imperial.*—Annas Two.

*For Bombay.*—Annas Four.

*For Bengal, Madras, Punjab, Assam.*—Annas Three.

42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.

*Imperial.*—Rupee One.

*For Bombay, Bengal, Punjab, Assam, U. Prov.*—Rupees Two.

*For Madras.*—Rupee one and annas eight only.

*See also* PROTEST OF BILL OR NOTE (No. 50).

**43. NOTE OR MEMORANDUM** sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—

- (a) of any goods exceeding in value twenty rupees.

*Imperial.*—Annas Two.

*For Bombay.*—Annas Four.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Annas Three.

- (b) of any stock or marketable security exceeding in value twenty rupees.

*Imperial.*—Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security.

*For Bombay.*—Subject to a maximum of Rupees Twenty, two annas for every Rs. 10,000 or part thereof of the value of the stock or security.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Subject to a maximum of Rupees Fifteen, two annas for Rs. 10,000 or part thereof of the value of the stock or security.

**44. NOTE OF PROTEST BY THE MASTER OF A SHIP.**

*Imperial.*—Annas Eight.

*For Bombay, Bengal, Madras, Assam, U. Prov.*—Rupee One.

*See also* PROTEST BY THE MASTER OF A SHIP (No. 51).

**ORDER FOR THE PAYMENT OF MONEY.** *See* BILL OF EXCHANGE (No. 13).

**45. PARTITION** —Instrument of [as defined by S. 2 (15)].

*Imperial, Bombay, Punjab, Assam, U. Prov., C. Prov., Bengal.*—The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.

*For Madras.*—The same duty as a Bottomry Bond (No. 16) for the amount of the value of the separated share or sharers of the property.

N.B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated.

Provided always that—

- (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas :
- (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue :
- (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

#### 46. PARTNERSHIP—

##### A.—INSTRUMENT OF—

- (a) where the capital of the partnership does not exceed Rs. 500.

*Imperial.*—Rupees Two and annas eight.

*For Bombay, Bengal, Madras, Assam.*—Rupees Five.

*For U. Prov.*—

- (a) when the capital does not exceed Five hundred rupees.—Rupees Three and annas twelve.

(b) when the capital exceeds  
Five hundred rupees but  
does not exceed One  
thousand rupees.—  
Rupees Seven and  
annas eight.

(c) In any other case.—  
Rupees Fifteen.

(b) in any other case

... *Imperial*.—Rupees Ten.

*For Bombay, Bengal, Madras,  
Assam*—Rupees Twenty.

B.—DISSOLUTION OF

... *Imperial*.—Rupees Five.

PAWN OR PLEDGE—*See* AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE No. (6).

*For Bombay, Bengal, Madras, Assam, U. Prov.*—Rupees Ten.

#### 47. POLICY OF INSURANCE—

*Imperial*:—

A. — SEA INSURANCE (*see* section 7)—

If drawn singly.	If drawn in duplicate, for each part.
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(1) for or upon any voyage—

(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy;

One anna.

Half an anna.

(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy;

Two annas.

One anna.

(2) for time—

(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—

where the insurance shall be made for any time not exceeding six months;

Two annas.

One anna.

where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas.	Two annas.
B.—FIRE INSURANCE and other classes of Insurance, not elsewhere included in this article, covering goods, merchandise, personal effects, crops, and other property against loss or damage—		
(1) in respect of an original policy—		
(i) when the sum insured does not exceed Rs. 5,000;	Eight annas.	
(ii) in any other case; ... and	One rupee.	
(2) in respect of each receipt of any payment of a premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.	
C.—ACCIDENT AND SICKNESS-INSURANCE—		
(a) against railway accident, valid for a single journey only.	One anna.	
<i>Exemption.</i>		
When issued to a passenger travelling by the intermediate or the third class in any railway.		
(b) in any other case—for the maximum amount which may become payable in the case of any single accident sickness where such amount does not exceed Rs. 1,000 and also where such amount exceeds Rs. 1,000, for every Rs. 1,000, or part thereof.	Two annas.	
CC.—INSURANCE BY WAY OF INDEMNITY—against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the	One anna.	

Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium—

D.—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this article—

for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—

(i) if drawn singly

... *Imperial.*—Six annas.

(ii) if drawn in duplicate, for each part.

*Imperial.*—Three annas.

*Exemption.*

Policies of life-insurance granted by the Director-General of the Post Office of India in accordance with rules for Postal Life-Insurance issued under the authority of the Government of India.

E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY of the nature specified in Division A, or Division B of this Article with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.

*Imperial.*—One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.

*General Exemption.*

Letter of cover or engagement to issue a policy of insurance :

Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.

**48. POWER - OF - ATTORNEY**  
[as defined by section 2  
(21)], not being a PROXY  
(No. 52)—

- |  |   |
|--|---|
| (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents ; | <p><i>Imperial.</i>—Annas Eight.</p> <p><i>For C. Prov., Bengal, Madras, Assam.</i>—<br/>Annas Twelve.</p> <p><i>For Bombay, Punjab.</i>—Rupee One.</p>                     |
| (b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882 ;  | <p><i>Imperial, C. Prov.</i>—Annas Eight.</p> <p><i>For Madras.</i>—Annas Twelve.</p> <p><i>For Bombay, Bengal, Punjab, Assam.</i>—<br/>Rupee One.</p>                      |
| (c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a) ;   | <p><i>Imperial.</i>—Rupee One.</p> <p><i>For C. Prov., Bengal, Madras, Assam.</i>—<br/>Rupee One and annas eight.</p> <p><i>For Bombay, Punjab.</i>—Rupees Two.</p>         |
| (d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally ;   | <p><i>Imperial.</i>—Rupees Five.</p> <p><i>For C. Prov., Bengal, Madras, Assam.</i>—<br/>Rupees Seven and annas eight.</p> <p><i>For Bombay, Punjab.</i>—Rupees Ten.</p>    |
| (e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;   | <p><i>Imperial.</i>—Rupees Ten.</p> <p><i>For C. Prov., Bengal, Madras, Assam.</i>—<br/>Rupees Fifteen.</p> <p><i>For Bombay, Punjab.</i>—Rupees Twenty.</p>                |
| (f) when given for consideration and authorising the attorney to sell any immoveable property ;  | <p><i>Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.</i><br/>—The same duty as a Conveyance (No. 23), for the amount of the consideration.</p>         |
| (g) in any other case ...  | <p><i>Imperial.</i>—Rupee One for each person authorised.</p> <p><i>For C. Prov., Bengal, Madras, Assam.</i>—<br/>Rupee One and annas eight for each person authorized.</p> |



*Explanation.*—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.

**49. PROMISSORY NOTE** [as defined by section 2 (22)]

(a) when payable on demand—

(i) when the amount or value does not exceed Rs. 250 ;

(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000.

(iii) in any other case.

(b) when payable otherwise than on demand.

*For Bombay, Punjab.*—Rupees Two for each person authorized.

*N.B.*—The term “registration” includes every operation incidental to registration under the Indian Registration Act, 1877.

*Imperial.*—Anna One.

*Imperial.*—Annas Two.

*Imperial.*—Annas Four.

*Imperial.*—The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.

**50. PROTEST OF BILL OR NOTE**, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.

*Imperial.*—Rupee One.

*For Bombay, Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Two.

**51. PROTEST BY THE MASTER OF A SHIP**, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the

*Imperial.*—Rupee One.

*For Bombay, Bengal, Madras, Assam, U. Prov.*—Rupees Two.

ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.

*See also* NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).

52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors to the Funds of any institution.

*Imperial.*—Two annas.

53. RECEIPT [as defined by section 2 (23)] for any money or other property the amount or value of which exceeds twenty rupees.

*Imperial.*—Anna One.

*Exemptions.*

Receipt—

- (a) endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal-money, interest or annuity, or other periodical payment thereby secured ;
- (b) for any payment of money without consideration ;
- (c) for any payment of rent by a cultivator on account of land assessed to Government revenue or (in the Presidencies of Fort St. George and Bombay) of Inam lands ;
- (d) for pay or allowances by non-commissioned officers or soldiers of Her Majesty's Army or Her Majesty's Indian Army, when serving in such capacity, or by mounted police-constables ;

- (e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said armies, and serving in such capacity ;
- (f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity ;
- (g) given by a headman or lambardar for land revenue or taxes collected by him ;
- (h) given for money or securities for money deposited in the hands of any banker, to be accounted for :

Provided that the same is not expressed to be received of, or by the hands of any other than the person to whom the same is to be accounted for ;

Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for, or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.

See also POLICY OF INSURANCE [No 47-B (2).]

#### 54. RE-CONVEYANCE OF MORTGAGED PROPERTY—

- (a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;

*Imperial, C. Prov.,  
Bengal, Madras,  
Punjab, Assam, U.  
Prov.*—The same  
duty as a Convey-  
ance (No. 23) for  
the amount of such  
consideration as set  
forth in the Re-  
conveyance.

(b) in any other case ... *Imperial, Bombay.*—Rupees Ten.

*For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Fifteen.

**55. RELEASE**, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—

(a) if the amount or value of the claim does not exceed Rs. 1,000 ;

*Imperial, Bombay, C. Prov., Bengal, Assam, U. Prov.*—The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.

*For Madras, Punjab.*—The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the Release.

(b) in any other case ... *Imperial.*—Rupees Five.

*For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Seven and annas eight.

*For Bombay.*—Rupees Ten.

**56. RESPONDENTIA BOND**, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.

*Imperial, Bombay, C. Prov. U. Prov.,*—The same duty as a Bond (No. 15) for the amount of the loan secured.

*For Bengal, Madras, Punjab, Assam.*—The same duty as a Bottomry Bond (No. 16) for the amount of the loan secured.

**REVOCATION OF ANY TRUST OR SETTLEMENT.** See SETTLEMENT (No. 58) ; TRUST (No. 64).

# 57. SECURITY BOND OR MORTGAGE-DEED


executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—

- (a) when the amount secured does not exceed Rs. 1,000 ;

*Imperial, Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.—The same duty as a Bond (No. 15) for the amount secured.*

*For Madras.—The same duty as a Bottomry Bond (No. 16) for the amount secured.*

- (b) in any other case ... *Imperial :—Rupees Five.*

*For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—Rupees Seven*  
 *and annas eight.*

*For Bombay.—Rupees Ten.*

## *Exemptions.*

Bond or other instrument, when executed—

- (a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;
- (b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;

*Exemption.*

Share warrant when issued by a company in pursuance of the Indian Companies Act, 1882, section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp revenue, of—

- (a) one and a half per centum of the whole subscribed capital of the Company, or
- (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital— one and a half per centum of the additional capital so issued.

**SCRIP.** See CERTIFICATE  
(No. 19).

**60. SHIPPING ORDER** for or relating to the conveyance of goods on board of any vessel.

*Imperial.*—Anna One.

**61. SURRENDER OF LEASE—**

- (a) When the duty with which the lease is chargeable does not exceed five rupees ;

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—  
The duty with which such lease is chargeable.

- (b) in any other case ...

*Imperial.*—Rupees Five.

*Exemption.*

Surrender of lease, when such lease is exempted from duty.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Seven and annas eight.

**62. TRANSFER** (whether  
with or without considera-  
tion)—

- (a) of shares in an incorporated company or other body corporate ;

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam.*— One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.

*For U. Prov.*—

(a) and (b) :—

When the value of the share or the face amount of the debenture does not exceed Rs. 100. Rs. 12.

When the value of the share or the face amount of the debenture exceeds Rs. 100 but does not exceed Rs. 200. Rs. 1-8-0.

When the value of the share or the face amount of the debenture exceeds Rs. 200 but does not exceed Rs. 300. Rs. 2-4-0.

When the value of the share or the face amount of the debenture exceeds Rs. 300 but does not exceed Rs. 400. Rs. 3-0-0.

When the value of the share or the face amount of the debenture exceeds Rs. 400 but does not exceed Rs. 500. Rs. 3-12-0.

When the value of the share or the face amount of the debenture exceeds Rs. 500 but does not exceed Rs. 600. Rs. 4-8-0.

When the value of the share or the face amount of the debenture exceeds Rs. 600 but does not exceed Rs. 700. Rs. 5-4-0.

When the value of the share or the face amount of the debenture exceeds Rs. 700 but does not exceed Rs. 800. Rs. 6-0-0.

When the value of the share or the face amount of the debenture exceeds Rs. 800 but does not exceed Rs. 900. Rs. 6-12-0.

When the value of the share or the face amount of the debenture exceeds Rs. 900 but does not exceed Rs. 1,000. Rs. 7-8-0.

and for every Rs. 500 or part thereof in excess of Rs. 1,000. Rs. 3-12-0.

- (b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8 ;
- Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam:—One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.*
- For U. Prov.—See under (a) above.*
- (c) of any interest secured by a bond, mortgage-deed or policy of insurance—
- (i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees [*For Madras only :—Substitute "Rupees seven and annas eight" for "Rupees five"—Mad. Act VI of 1923.*]
- Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.:—The duty with which such bond, mortgage-deed or policy of insurance is chargeable.*
- (ii) in any other case.
- Imperial.—Rupees Five.*
- For Bengal, Madras, Punjab, Assam, U. Prov.,—Rupees Seven and annas eight.*
- For Bombay.—Rupees Ten.*
- (d) of any property under the Administrator - General's Act, 1874, section 31 ;
- Imperial, Bombay.—Rupees Ten.*
- For Bengal, Madras, Punjab, Assam, U. Prov.—Rupees Fifteen.*
- (e) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.
- Imperial. —Five rupees or such smaller amount as may be chargeable under clauses (a) to (c) of this article.*
- For Bengal, Madras, Punjab, Assam, U. Prov.—Seven rupees eight annas or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.*
- Exemptions.*
- "Transfers by endorsement—
- (a) of a bill of exchange, cheque or promissory note;
- (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;



*See also* SETTLEMENT  
(No. 58).

VALUATION. *See* APPRAISE-  
MENT (No. 8).

VAKIL. *See* ENTRY AS A  
VAKIL (No. 30).

65. WARRANT FOR GOODS,  
that is to say, any instru-  
ment evidencing the title  
of any person therein  
named, or his assigns, or  
the holder thereof, to the  
property in any goods  
lying in or upon any dock,  
warehouse or wharf, such  
instrument being signed  
or certified by or on behalf  
of the person in whose  
custody such goods may  
be.

*For U. Prov.*—The same duty as a  
Bond (No. 15) for a sum equal to  
the amount or value of the property  
concerned as set forth in the  
instrument but not exceeding  
fifteen rupees.

*Imperial.*—Annas Four.

*For Bengal, Madras, Punjab, Assam,  
U. Prov.*—Annas Six.

*For Bombay.*—Annas Eight.

## SCHEDULE II.

[Repealed by Act X of 1914.]

# IMPERIAL ACT.

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## THE INDIAN (SPECIFIED INSTRUMENTS) STAMP ACT, 1924.

ACT XIII OF 1924.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON  
THE 13TH JUNE, 1924.]

*An Act to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments.*

WHEREAS it is expedient to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments ; It is hereby enacted as follows :—

Short title and extent.                      1. (1) This Act may be called the Indian (Specified Instruments) Stamp Act, 1924.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. In this Act,—

Definitions.                      (a) " instrument to which this Act applies" means—

- (i) any instrument mentioned in Article No. 19, No. 36, No. 37 or No. 52 in Schedule I to the Indian Stamp Act, 1899, or
- (ii) any promissory note payable on demand for an amount exceeding two hundred and fifty rupees,

which has been executed in British India at any time after the 30th day of September, 1923, and before the 1st day of April, 1924, and which has been stamped in such a manner that it would have been duly stamped for the purposes of the Indian Stamp Act, 1899, if the Indian Stamp (Amendment) Act, 1923, had not been passed ; and

(b) " section" means a section of the Indian Stamp Act, 1899.

3. (1) No exception or restriction in respect of promissory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

Application of  
certain provisions of  
Act II of 1899.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (i) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (i) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (1) of section 49, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

# LOCAL ACTS.

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## THE ASSAM ACT III OF 1922.

*An Act to amend the Indian Stamp Act, 1899, in its application to Assam.*

WHEREAS it is expedient to increase the revenues of Assam and for that purpose to amend the Indian Stamp Act, 1899, in its application to Assam, in the manner hereinafter appearing ;

And whereas the previous sanction of the Governor General has been obtained, under section 80-A. sub-section (3), of the Government of India Act, to the passing of this Act ;

It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Stamp (Amendment) Act, 1922.

(2) It extends to the whole of Assam.

(3) It shall come into force on the first day of May 1922, and shall remain in force for a period of three years.

Application of Act. 2. The Indian Stamp Act, 1899, hereinafter referred to as the said Act, shall, in its application to Assam, be amended in the manner hereinafter provided.

Amendment of clause (10) of section 2 of Act II of 1899. 3. To clause (10) of section 2 of the said Act the following shall be added, namely.—“or by Schedule I-A, as the case may be”.

Amendment of section 3. 4. In section 3 of the said Act,—

“(1) after clause (c) the following shall be inserted, namely :—

“ Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall,

subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Assam on or after the first day of May 1922; and
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of Assam on or after the first day of May, 1922, and relates to any property situated, or to any matter or thing done or to be done in Assam, and is received in Assam".

(2) after the word "Provided" the word "also" shall be inserted.

Amendment of section 4 (1). 5. In sub-section (1) of section 4 of the said Act,—

(a) after the words and figure "in Schedule I" the following shall be inserted, namely :—

"or in Schedule I-A, as the case may be";

(b) for the words and brackets "instead of the duty (if any) prescribed for it in that schedule" the following shall be substituted, namely ;

"if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be".

Amendment of section 6. 6. In section 6 of the said Act,—

(1) in the first paragraph, after the words and figure "in Schedule I" the following shall be inserted, namely :—

"or in Schedule I-A, as the case may be";

(2) in the proviso, after the words "one rupee" the words "eight annas" shall be inserted, and after the words "has been paid" the following shall be added namely :—

"unless it falls within the provisions of section 6-A".

New section 6-A. 7. After section 6 of the said Act the following shall be added, namely :—

Payment of Assam Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

"6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Assam Stamp (Amendment) Act, 1922, has been paid—

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in Assam, have been chargeable, under the Assam Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence".

New section 19-A.

8. After section 19 of the said Act the following shall be inserted, namely :—

"19-A. Where any instrument has become chargeable in any part of British India other than Assam with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in Assam under clause (bb) of the first proviso to section 3—

Payment of duty on certain instruments liable to increased duty in Bengal under clause (bb) of section 3.

(i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A, less the amount of duty, if any, already paid on it in British India,

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty".

New section 29-A.

9. After section 29 of the said Act the following shall be inserted, namely :—

Application of sections 23-A, 24 and 29 to instrument chargeable with duty under Schedule I-A.

“29-A. In applying sections 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Assam Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A”.

Amendment of section 32.

10. In section 32 of the said Act,—

(1) in clause (a) of the proviso, after the words “any instrument” the words “other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3” shall be inserted;

(2) the word “or” at the end of clause (b) of the proviso shall be omitted;

(3) after clause (c) of the proviso the following shall be inserted, namely :—

“or

“(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Assam”.

New section 48-A.

11. After section 48 of the said Act the following shall be inserted, namely :—

“48-A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of any instrument chargeable in Assam with a higher rate of duty under the Assam Stamp (Amendment) Act 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such

instrument with duty unless the duty chargeable under the Assam Stamp (Amendment) Act, 1922, has been paid on such instrument”.

Amendment of section 77.

12. At the beginning of section 77 of the said Act the following shall be inserted, namely :—

“Except for the provisions as to copies contained in section 6-A”.

New Schedule I-A.

13. After Schedule I to the said Act the following shall be inserted, namely :—

#### SCHEDULE I-A.

[N.B.—The provisions of this schedule have been incorporated in the text of the Act in this book.]

## BENGAL ACT III OF 1922.

*An Act to amend the Indian Stamp Act, 1899, in its application to Bengal.*

Preamble. WHEREAS it is expedient to increase the revenues of Bengal and for that purpose to amend the Indian Stamp Act, 1899, in its application to Bengal, in the manner hereinafter appearing;

And whereas the previous sanction of the Governor-General has been obtained, under section 80-A, sub-section (3), of the Government of India Act, to the passing of this Act;

It is hereby enacted as follows:—

Short title, extent and commencement. 1. (1) This Act may be called the Bengal Stamp (Amendment) Act, 1922.

(2) It extends to the whole of Bengal.

(3) It shall come into force on the first day of April, 1922.

Application of Act. 2. The Indian Stamp Act, 1899, hereinafter referred to as the said Act, shall, in its application to Bengal, be amended in the manner hereinafter provided.

Amendment of clause (10) of section 2 of Act II of 1899. 3. To clause (10) of section 2 of the said Act, the following shall be added, namely:—"or by Schedule I-A, as the case may be".

Amendment of section 3. 4. In section 3 of the said Act,—

(1) after clause (c) the following shall be inserted, namely:—

" Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A, to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefore respectively,—

(aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Bengal on or after the first day of April, 1922; and



- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of Bengal on or after the first day of April, 1922, and relates to any property situated or to any matter or thing done or to be done in Bengal, and is received in Bengal";
- (2) after the word " Provided " the word " also " shall be inserted.

Amendment of section 4 (1).

5. In sub-section (1) of section 4 of the said Act—

- (a) after the words and figure " in Schedule I " the following shall be inserted, namely :—
- " or in Schedule I-A, as the case may be ";
- (b) for the words and brackets " instead of the duty (if any) prescribed for it in that schedule " the following shall be substituted, namely :—
- " if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be ".

Amendment of section 6.

6. In section 6 of the said Act,—

- (1) in the first paragraph, after the words and figure " in Schedule I " the following shall be inserted, namely :—
- " or in Schedule I-A, as the case may be ";
- (2) in the proviso, after the words " one rupee " the words " eight annas " shall be inserted, and after the words " has been paid " the following shall be added, namely :—
- " unless it falls within the provisions of section 6-A ".

New Section 6-A.

7. After section 6 of the said Act the following shall be inserted, namely :—

Payment of Bengal Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in sections 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid—

- (a) on the principal or original instrument as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy

of any instrument shall, if the principal or original instrument would, when received in Bengal, have been chargeable, under the Bengal Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence ”.

New section 19-A.

8. After section 19 of the said Act the following shall be inserted namely :—

“ 19-A. Where any instrument has become chargeable in any part of British India other than Bengal with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in Bengal under clause (bb) of the first proviso to section 3—

Payment of duty on certain instruments liable to increased duty in Bengal under clause (bb) of section 3.

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty ”.

New section 29-A.

9. After section 29 of the said Act the following shall be inserted, namely :—

Application of sections 23-A, 24 and 29 to instrument chargeable with duty under Schedule I-A.

“ 29-A. In applying sections 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A ”.

Amendment of  
section 32.

10. In section 32 of the said Act—

- (1) in clause (a) of the proviso, after the words " any instrument " the words " other than an instrument " chargeable with a duty under clause (bb) of the first proviso to section 3 " shall be inserted ;
- (2) the word " or " at the end of clause (b) of the proviso shall be omitted ;
- (3) after clause (c) of the proviso the following shall be inserted, namely :—

" or

" (d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Bengal ".

New section 48-A. 11. After section 48 of the said Act the following shall be inserted, namely :—

" 48-A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in Bengal with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid on such instrument".

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Bengal.

Amendment of section 77. 12. At the beginning of section 77 of the said Act the following shall be inserted, namely :—

" Except for the provisions as to copies contained in section 6-A ".

New Schedule I-A. 13. After Schedule I to the said Act, the following shall be inserted, namely :—

#### SCHEDULE I-A.

[N.B.—The provisions of this schedule have been incorporated in the text of the Act in this book.]

## BOMBAY ACT, II OF 1922.

*An Act further to amend the Indian Stamp Act, 1899.*

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899, in its application to the Presidency of Bombay and whereas the previous sanction of the Governor-General required by clauses (a) and (f) of sub-section (3) of section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

Commencement  
and duration.

1. (i) This Act may be called the Indian Stamp (Bombay Amendment) Act, 1922.

(ii) It extends to the whole of the Presidency of Bombay.

(iii) It shall come into force on the 1st day of April 1922 and shall be in force for four years thereafter.

2. In clause (a) of section 11, proviso (c) to section 32, proviso (a) to section 35, sub-section (1) of section 40, section 41, clause (b) of section 69 and the proviso to section 74 of the Indian Stamp Act, 1899, hereinafter called the said Act, before the words "one anna" the words "two annas" shall be inserted.

Amendment of  
sections 11, 32, 35,  
40, 41, 69 and 74 of  
II of 1899.

New section 19-A  
of II of 1899.

3. After section 19 of the said Act, the following new section shall be inserted, namely :—

" 19-A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Presidency of Bombay is executed out of the said Presidency and subsequently received in the said Presidency—

Payment of duty  
on certain instru-  
ments liable to  
increased duty in  
Bombay Presidency.

(a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Presidency of Bombay less the amount of duty, if any, already paid on it in British India,

(b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received

in British India for the first time at the time when it became chargeable with the higher duty, and

- (c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto".

Amendment of  
Schedule I of II of  
1899.

4. In Schedule I to the said Act,—

- (a) in column 1 of article 12, clauses (a) and (b) shall be repealed;  
(b) for the entries in column 2 of the said Schedule relating to articles 2 (b), 3, 4, 8 (b), 9, 12, 14, 15, 18, 20, 22, 23, 24, 25 (b), 26 (b), 29, 30 (b), 39, 40 (c), 41, 42, 43, 44, 46, 48, 50, 51, 54 (a), 55 (b), 57 (b), 62 (c) (ii) and 65 and shown in column 2 of the Schedule to this Act the entries shown in column 3 of the latter schedule shall be substituted; and  
(c) for articles 7 and 10 the following shall, respectively, be substituted, namely:—

"7. APPOINTMENT IN EXECUTION OF A POWER, where made by any writing not being a will—

- (a) of trustees ... .. Fifteen rupees.  
(b) of property, moveable or immoveable ... Thirty rupees.

10. ARTICLES OF ASSOCIATION OF A COMPANY—

- |  |                          |
|--|--------------------------|
| (a) where the Company has no share capital<br>or the nominal share capital does not<br>exceed Rs. 2,500. | } Twenty-five<br>rupees. |
| (b) where the nominal share capital exceeds<br>Rs. 2,500 but does not exceed Rs. 10,000.                 |                          |
| (c) where the nominal share capital exceeds<br>Rs. 1,00,000.   | } One hundred<br>rupees. |
|  |                          |

#### *Exemption.*

Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1913.

See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39)."

#### SCHEDULE.

[N.B.—The provisions of this Schedule have been incorporated in the text of the Act in this book.]

## CENTRAL PROVINCES ACT, II OF 1923.

*An Act to amend the Indian Stamp Act, 1899, in its application to the Central Provinces.*

WHEREAS it is expedient further to amend the Indian Stamp Act, 1899, in its application to the Central Provinces,

AND WHEREAS the previous sanction of the Governor-General required by clauses (a) and (f) of sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows :—

Short title. 1. (1) This Act may be called the Indian Stamp (Central Provinces Amendment) Act, 1923.

Extent. (2) It extends to the whole of the Central Provinces.

Commencement and duration. (3) It shall come into force on such date as the Local Government may, by notification, direct and shall remain in force to the 31st day of March, 1926.

New section 19-A of Stamp Act. 2. After section 19 of the Indian Stamp Act, 1899 (hereinafter called the said Act), the following new section shall be inserted, namely :—

Payment of duty on certain instruments liable to increased duty in Central Provinces. "19-A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Central Provinces is executed out of the said province and subsequently received in the said province—

(a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Central Provinces less the amount of duty, if any, already paid on it in British India ;

• (b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India

for the first time at the time when it becomes chargeable with the higher duty, and

- (c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if it were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto".

Amendment of  
Schedule I of Stamp  
Act.

### 3. In Schedule I to the said Act—

- (a) for the entries in column 2 of the said Schedule relating to articles 2 (b), 3, 4, 5, 8 (b), 10, 15, 18 (a), 18 (b), 23, 24, 39, 48 (a), 48 (c), 48 (d), 48 (e), 48 (h), 54 (b), 55 (b) and 57 (b) and shown in column 2 of the Schedule to this Act, the entries shown in column 3 of the latter Schedule shall be substituted ; and

- (b) for article 12, the following shall be substituted, namely :—

" 12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—

where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000,

and in any other case.

#### *Exemption.*

Award under the Bombay District Municipal Act, 1901, section 160, or the Bombay Hereditary Offices Act, 1874, section 18."

The same duty as a Bond No. (15) for such amount or value.

Seven rupees eight annas.

### SCHEDULE.

[N. B.—The provisions of this Schedule have been incorporated in the text of the Act in this book.]

# MADRAS ACT VI OF 1922.

[AS AMENDED BY MADRAS ACT VI OF 1923.]

*An Act to amend the Indian Stamp Act, 1899, in its application,  
to the Presidency of Madras.*

Preamble. WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to the Presidency of Madras ;

And whereas the previous sanction of the Governor General has been obtained under section 80 A, sub-section (3), of the Government of India Act to the passing of this Act ;

It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Madras Stamp (Amendment) Act, 1922.

(2) It extends to the whole of the Presidency of Madras.

Interpretation clause. 2. In this Act the words “ the principal Act ” shall mean the Indian Stamp Act, 1899.

Amendment of clause (10) of section 2 of Act II of 1899. 3. To clause (10) of section 2 of the principal Act the following shall be added, namely :—“ or by Schedule I-A, as the case may be ”.

Amendment of section 3. 4. In section 3 of the principal Act,—

(1) after clause (c) the following shall be inserted, namely :—

“ Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clauses (a) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A shall, subject to the exceptions contained in that schedule, be the duty chargeable on the following instruments :—

(aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in the Presidency of Madras on or after the first day of April 1922 ;

(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of the Presidency of Madras on or after the first day of



April 1922, and relates to any property situated or to any matter or thing done or to be done in the said Presidency and is received in the said Presidency ”.

(2) after the word “ Provided ” the word “ also ” shall be inserted.

Amendment of section 4. 5. In sub-section (1) of section 4 of the principal Act—

- (a) after the words and figure “ in Schedule I,” the words, figure and letter “ or in Schedule I-A as the case may be ” shall be inserted ;
- (b) after the words “ one rupee ” the words “ or one rupee eight annas ” shall be inserted ;
- (c) for the words “ in that Schedule ” the words, figures and letter “ in Schedule I or in Schedule I-A as the case may be ” shall be substituted.

Amendment of section 6. 6. In section 6 of the principal Act, after the word and figure “ Schedule I ” the words, figure and letter “ or in Schedule I-A as the case may be ” and after the words “ one rupee ” the words “ or one rupee eight annas as the case may be ” shall be inserted.

Addition of a new section 19-A. 7. After section 19 the following shall be inserted, namely :—

“ 19-A. Where any instrument has become chargeable in any part of British India other than the Presidency of Madras with duty under the Stamp law in force in that part of British India and thereafter becomes chargeable with a higher rate of duty in the said Presidency under clause (bb) of the first proviso to section 3—

Payment of duty on certain instruments liable to increased duty under clause (bb) of section 3.

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with stamps necessary for the payment of the amount of duty chargeable on it, under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and

- (iii) the provisions contained in clause (b) or clause (c), as the case may be, of the proviso to sub-section (3) of section 32 shall, with the necessary modifications, apply to such instrument, but the provisions contained in clause (a) of the said proviso shall not apply thereto ”.

Amendment of section 23-A. 8. In sub-section (1) of section 23-A after the word and figure “ Schedule I ” the words, figure and letter “ or article No. 4 (c) of Schedule I-A as the case may be shall be inserted.”

Amendment of section 24. 9. In section 24 after the word and figure “ Schedule I ” the words, figures and letter “ or article 16 of Schedule I-A as the case may be ” shall be inserted.

Amendment of section 29. 10. In clause (a) of section 29 after the word and figure “ Schedule I ” the words, figure and letter “ or the corresponding articles of Schedule I-A as the case may be ” shall be inserted.

Amendment of section 32. 11. In clause (a) of the proviso to sub-section (3) of section 32, after the words “ half an anna,” the following shall be inserted, namely:—

“ or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clauses (aa) or (bb) of section 3 with a duty of two annas ”.

Amendment of sections 35, 40 and 41. 12. In clause (a) of the proviso to section 35, in sub-section (1) of section 40 and in section 41, after the words “ half an anna only,” the following shall be inserted, namely :—

“ or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clauses (aa) or (bb) of section 3 with a duty of two annas ”.

Addition of a new Schedule I-A. 13. After Schedule I of the principal Act the following shall be inserted, namely :

#### SCHEDULE I-A.

[N.B.—The provisions of this schedule have been incorporated in the text of the Act in this book.]

## PUNJAB ACT VIII OF 1922.

*An Act to provide for the amendment of the Indian Stamp Act, 1899, in its application to the Punjab.*

WHEREAS it is expedient to increase the revenues of the Punjab and for that purpose to amend the Indian Stamp Act, 1899, in its application to the Punjab, in the manner hereinafter appearing ;

And whereas the previous sanction of the Governor General under sub-section (3) of section 80-A, of the Government of India Act, has been obtained ; it is hereby enacted as follows :—

Short title, and commencement. 1. (1) This Act may be called the Indian Stamp (Punjab Amendment) Act, 1922.

(2) It extends to the Punjab.

(3) It shall come into force on such date as the Local Government may by notification appoint in this behalf.

2. The Indian Stamp Act, 1899, shall, in its application to the Punjab, be amended in the manner hereinafter provided.

Meaning of sections. 3. The sections hereinafter referred to by number mean the sections so numbered in the Indian Stamp Act, 1899, unless it shall appear to the contrary.

Amendment of section 2. 4. In clause (10) of section 2 for the colon shall be substituted a comma, followed by the words "or by Schedule I-A as the case may be".

Amendment of section 3. 5. In section 3—

(1) After clause (c) the following proviso shall be inserted namely :—

" Provided that, notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, and subject to the exemptions contained in Schedule I-A, the following instruments shall be chargeable with duty of the amount indicated in Schedule I-A, as the proper duty therefor, respectively, that is to say—

(aa) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been

previously executed by any person is executed in the Punjab on or after the date of commencement of this Act ;

- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed out of the Punjab on or after the date of the commencement of this Act and relates to any property situated, or to any matter or thing done or to be done in the Punjab, and is received in the Punjab ”.

(2) Between the word “ Provided ” and the words that no duty the word “ also ” shall be inserted.

Amendment of  
section 4.

6. In sub-section (1) of section 4—

- (a) for the figure I after the words “ in Schedule ” shall be substituted the figure and letter “ I-A ”.
- (b) between the word “ rupee ” and the word “ instead ” shall be inserted the words “ and eight annas ”.

Amendment of  
section 5.

7. In section 6—

- (1) between the word “ descriptions ” and the word “ in ” shall be inserted the word “ given ” and after the word and figure “ Schedule I ” shall be inserted the words, figure and letter “ and Schedule I-A ”.
- (2) in the proviso, after the words “ one rupee ” the words “ and eight annas ” shall be inserted, and after the words “ has been paid ” the following shall be added, namely :—
- “ unless it falls within the provisions of section 6-A ”.

New section.

8. After section 6 the following new section shall be inserted, namely :—

Payment of the Punjab Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

“6-A. (1) Notwithstanding anything contained in sections 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Indian Stamp (Punjab Amendment) Act, 1922, has been paid—

- (a) on the principal or original instrument as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in the Punjab, have been chargeable, under the Indian

Stamp (Punjab Amendment) Act, 1922, with a higher rate of duty be the duty with which the principal or original instrument would have been chargeable under section 19-A :

(2) Notwithstanding anything contained in section 35 or in any other law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a court before which any such instrument, counterpart, duplicate or copy is produced, shall permit the duty chargeable under this section to be paid thereon, and shall then receive it in evidence ”.

Amendment of section 9. 9. In clause (a) of section 9 between the word “ chargeable ” and the word “ and ” shall be inserted the following proviso, namely :—

“ Provided that with respect to instruments which are chargeable with duty under Schedule I-A, such reduction or remission may, by notification, be granted by the Governor in Council ”.

New section. 10. After section 19, the following new section shall be inserted, namely :—

“ 19-A. Where any instrument has become chargeable in any part of British India other than the Punjab with duty under this Act or under any other law for the time being in force in any part of British India and thereafter become chargeable with a higher rate of duty in the Punjab and clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922—

Payment of duty on certain instruments liable to increased duty in the Punjab under clause (bb) of section 3.

- (i) notwithstanding anything contained in the said proviso, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India:
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty ”.

Amendment of section 23-A. 11. In sub-section (1) of section 23-A the letter “ A ” shall be added after the figure “ 1 ”.

Amendment of section 24. 12. In the proviso to section 24 for the full stop shall be substituted a comma followed by the words, figure and letter "or Schedule I-A, as the case may be".

Amendment of section 29. 13. In clause (a) of section 29 the letter "A" shall be inserted between figure "I" and the word "namely".

Amendment of section 32. 14. In section 32—

(1) in clause (a) of the proviso, after the words "any instrument" the words "other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922" shall be inserted;

(2) the word "or" at the end of clause (b) of the proviso shall be omitted;

(3) after clause (c) of the proviso the word "or" shall be added followed by a new clause (d) as follows:—

"(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922, and brought to him after the expiration of three months from the date on which it is first received in the Punjab."

Amendment of section 77. 15. At the beginning of section 77 the following words shall be inserted, namely,—

"Except for the provisions as to copies contained in section 6-A".

New Schedule. 16. After Schedule I the new Schedule I-A hereinafter annexed shall be deemed to have been added.

17. Wherever the words "as in Schedule I" appear in Schedule I-A opposite the name of any instrument, the duty payable on such instrument shall be as specified in Schedule I, and wherever the entries in the second column of Schedule I-A differ from the corresponding entries in Schedule I, the duty payable shall be the amount specified as payable in Schedule I-A instead of the amount so specified in Schedule I.

Substitution of entries in Schedule I-A for entries in Schedule I.

#### SCHEDULE I-A.

[N.B.—The provisions of this schedule have been incorporated in the text of the Act in this book.]

# THE PUNJAB STAMP (AMENDMENT) ACT, 1924.

## ACT I OF 1924.

*An Act to amend the Indian Stamp (Punjab Amendment Act, 1922).*

WHEREAS it is expedient to increase the revenues of the Punjab and for that purpose to amend the Indian Stamp (Punjab Amendment) Act, 1922, in the manner hereinafter appearing, and whereas the previous sanction of the Governor General under clause (f) of sub-section (3) of section 80-A of the Government of India Act has been obtained :

It is hereby enacted as follows :—

Title and commencement.	1. (1) This Act may be called the Punjab Stamp (Amendment) Act, 1924.
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(2) It shall come into force on such date as the Local Government may by notification appoint in this behalf.

Amendment of Article 23 of Schedule I A of the Indian Stamp (Punjab Amendment) Act, 1922.	2. In Schedule I-A to the Indian Stamp (Punjab Amendment) Act, 1922, in Article 23, before the word "Exemptions" the following proviso shall be inserted, namely :—
---	---

" Provided that a conveyance of immoveable property situated within a Municipality, Cantonment or Notified Area shall be chargeable with a stamp duty at double the rate hereinbefore provided.

*Explanation.*—For the purpose of this proviso ' Notified Area ' means an area in regard to which a notification has been issued or may hereafter be issued under section 241 of the Punjab Municipal Act, 1911 ; and in which the total population is according to the latest census more than five thousand in number".

# UNITED PROVINCES ACT V OF 1923.

*An Act to amend the Indian Stamp Act, 1899, in its application to the United Provinces.*

WHEREAS it is expedient to increase the revenues of the United Provinces and for that purpose to amend the Indian Stamp Act, 1899, in its application to the United Provinces, in the manner hereinafter appearing ;

And whereas the previous sanction of the Governor General has been obtained, under section 80-A, sub-section (3), of the Government of India Act, to the passing of this Act ;

It is hereby enacted as follows :—

Short title. 1. (1) This Act may be called the United  
extent, commence- Provinces Stamp (Amendment) Act, 1923.  
ment and duration.

(2) It extends to the whole of the United Provinces.

(3) It shall come into force on the 1st day of May, 1923, and shall remain in force for one year only,

Application of 2. The Indian Stamp Act, 1899, hereinafter  
Act II of 1899. referred to as the said Act, shall, in its application to the United Provinces, be amended in the manner hereinafter provided.

Amendment of 3. To clause (10) of section 2 of the said Act  
clause (10) of section 2 of Act II of 1899, the following shall be added, namely,—

“ or by Schedule I-A, as the case may be ”.

Amendment of 4. In section 3 of the said Act—  
section 3.

(1) after clause (c) the following shall be inserted, namely,—

“ Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

(aa) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed in the United Provinces on or after the first day of May, 1923 ;  
and



(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule which, not having been previously executed by any person, is executed out of the United Provinces on or after the first day of May, 1923, and relates to any property situated, or to any matter or thing done or to be done in the United Provinces, and is received in the United Provinces”;

(2) after the word “Provided” the word “also” shall be inserted.

Amendment of section 4 (1). 5. In sub-section (1) of section 4 of the said Act—

(a) after the words and figure “in Schedule I” the following shall be inserted, namely,—

“or in Schedule I-A, as the case may be”;

(b) for the words and brackets “instead of the duty (if any) prescribed for it in that schedule” the following shall be substituted, namely,—

“If the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be”.

Amendment of section 6. 6. In section 6 of the said Act—

(1) in the first paragraph, after the words and figure “in Schedule I” the following shall be inserted, namely,—

“or in Schedule I-A, as the case may be”;

(2) in the proviso, after the words “one rupee” the words “eight annas” shall be inserted, and after the words “has been paid” the following shall be added, namely,—

“unless it falls within the provisions of section 6-A”.

New section 6-A. 7. After section 6 of the said Act, the following shall be inserted, namely,—

Payment of the United Provinces stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

“6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the United Provinces Stamp (Amendment) Act, 1923, has been paid—

(a) on the principal or original instrument as the case may be,  
or

(b) in accordance with the provisions of this section, the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would when received in the United Provinces, have been chargeable under the United Provinces Stamp (Amendment) Act, 1923, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate, or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a court before which any such instrument, counterpart, duplicate or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence ”.

New section 19-A.

8. After section 19 of the said Act the following shall be inserted, namely,—

Payment of duty on certain instruments liable to increased duty in the United Provinces under clause (bb) of section 3.

“ 19-A. Where any instrument has become chargeable in any part of British India other than the United Provinces with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in the United Provinces under clause (bb) of the first proviso to section 3—

(i) notwithstanding anything contained in the first proviso to section 3 the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India.

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty ”.

New section 29-A. 9. After section 29 of the said Act the following shall be inserted, namely,—

Applications of sections 23-A, 24 and 29 to instruments chargeable with duty under Schedule I-A.

"29-A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the United Provinces Stamp (Amendment) Act, 1923, the references in those sections to the several articles in Schedule I shall be deemed to the references to the corresponding articles in Schedule I-A."

Amendment of section 32.

10. In section 32 of the said Act—

- (1) in clause (a) of the proviso after, the words "any instrument" the words "other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3" shall be inserted
- (2) the word "or" at the end of clause (b) of the proviso shall be omitted ;
- (3) after clause (c) of the proviso the following shall be inserted , namely,—

"or

"(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in the United Provinces."

New section 48-A. 11. After section 48 of the said Act the following shall be inserted, namely,—

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in the United Provinces.

"48-A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in the United Provinces with a higher rate of duty under the United Provinces Stamp (Amendment) Act, 1923, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the United Provinces Stamp (Amendment) Act, 1923, has been paid on such instrument."

Amendment of section 77.

12. At the beginning of section 77 of the said Act the following shall be inserted, namely,—

"Except for the provisions as to copies contained in section 6-A."

New Schedule I-A.

13. After Schedule I to the said Act the following shall be inserted, namely,—

#### SCHEDULE I-A.

[N.B.—The provisions of this schedule have been incorporated in the text of the Act in this book.]

# THE UNITED PROVINCES STAMP (SECOND AMENDMENT) ACT, 1924.

## ACT II OF 1924.

*An Act to extend the duration of the United Provinces Stamp (Amendment) Act, 1923.*

WHEREAS it is expedient to extend the duration of the United Provinces Stamp (Amendment) Act, 1923, and whereas the previous sanction of the Governor General has been obtained under sub-section (3) of section 80-A of the Government of India Act to the passing of this Act ; It is hereby enacted as follows :—

Short title, extent  
and commencement.

1. (1) This Act may be called the United Provinces Stamp (Second Amendment) Act, 1924.

(2) It extends to the whole of the United Provinces.

(3) It shall come into force on the first day of May, 1924.

2. All the provisions of the United Provinces Stamp (Amendment) Act, 1923, except that respecting duration shall  
Extension of du-  
ration of Act V of  
1923. continue in force for a further period of one year up-  
to the 30th April, 1923.



# THE INDIAN STAMP ACT, 1899.

(ACT II OF 1899).

[Passed on the 27th January, 1899.]

## HISTORICAL MEMOIR.

Year.	No. of Act.	Name of Act.	How affected.
1858	XIX	Authentication of certain stamped paper.	Rep., Act XVIII of 1869.
1858	XLI	Stamp Duties, Bengal ...	Do.
1869	XVIII	General Stamp Act ...	Rep., Act I of 1879.
1879	I	The Indian Stamp Act, 1879.	The whole.—Rep. Act II of 1899.
1882	VI	The Indian Companies Act, 1882.	Section 35.—Do.
1884	IX	The Legal Practitioners Act, 1884.	Section 10.—Do.
1886	I	The Indian Stamp Act (1879) Amendment Act, 1886.	The whole.—Do.
1888	V	The Inventions and Designs Act, 1888.	So much of the first schedule as relates to the Indian Stamp Act, 1879 (I of 1879).—Rep. Act II of 1899.
1888	XVIII	The Burma Financial Commissioner's Act, 1888.	So much of the schedule as relates to the Indian Stamp Act, 1879 (I of 1879).—Rep. Act II of 1899.
1889		The Probate and Administration Act, 1889.	Sub-sections (3) and (4) of section 18.—Rep. Act II of 1899.
1890	XX	The North-Western Provinces and Oudh Act, 1890.	So much of section 38 as relates to the Indian Stamp Act, 1879 (I of 1879).—Rep. Act II of 1899.
1891	XII	The Repealing and Amending Act, 1891.	So much of Part I of the first and second schedules as relates to the Indian Stamp Act, 1879 (I of 1879).—Rep. Act II of 1899.
1894	VI	The Indian Stamp Act (1879) Amendment Act, 1894.	The whole.—Rep. Act II of 1899.
1897	XIII	The Indian Stamp Act (1879) Amendment Act, 1897.	The whole.—Rep. Act II of 1899.
1899	II	Stamp Act ...	Amended, Acts VI of 1900, XV of 1904, V of 1906, VI of 1910, I of 1912. Amended and Rep. in part, Act X of 1914. Am., Act XIII of 1916. Am., Act XVIII of 1919. Am., Act XI of 1923. Am., Act XLIII of 1923. Am., Act XIII of 1924. Am., Act XV of 1925.

*An Act to consolidate and amend the law relating to Stamps.*

WHEREAS it is expedient to consolidate and amend the law relating to Stamps <sup>1</sup>; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

Short title, extent  
and commencement.

**1.** (1) This Act may be called the Indian Stamp Act, 1899.

(2) It extends to the whole of British India <sup>2</sup>, inclusive of [1] \* \* British Baluchistan, the Santhal Parganas, and the Pargana of Spiti; and

(3) It shall come into force on the first day of July, 1899 <sup>3</sup>.

### Legislative Changes—Imperial.

[1] The words ' Upper Burma ' were omitted by Act X of 1914.

### NOTES.

#### Old Acts :—

Act I of 1879—S. 3.

Act XVIII of 1869—S. 3.

Act X of 1862—S. 56.

Act XXXVI of 1860—S. 41.

#### Corresponding sections in the English Acts.

33 & 34 Vict., C. 97—S. 2.

54 & 55 Vict., C. 39—S. 29.

*1.—“Whereas it is expedient to consolidate and amend...Stamps.”*

#### (1) History of Stamp Laws in India.

- (a) Prior to 1860 the Stamp Laws were governed by various Regulations. A
- (b) The Regulations prevalent in Bengal were :—Regulation VI of 1798; VII of 1800; XIII of 1806; VIII of 1807; VII of 1809; XII of 1812; XVI of 1813; I of 1814; XVI of 1824; XII of 1826; X of 1829. B
- (c) The Stamp Enactments in Bombay prior to 1860 were :—Bombay Regulations XIV of 1815; XVIII of 1827; III of 1828; VIII of 1830; VIII of 1831; XIV of 1831. C
- (d) The following Stamp Regulations have been in vogue in Madras prior to 1860 :—Madras VIII of 1800; II of 1813; XIII of 1816; II of 1825. D
- (e) Punjab Board Administration's Circular Nos. 289 of 1849; 393 of 1849; 20½ of 1850; 30 of 1851; Judicial Commissioner Book Circular No. XI of 1859; Act XI of 1839; Act XV of 1845; Act IX of 1858; Act XLI of 1858. E
- (f) Subsequent to 1860.—*See* Historical Memoir *supra*. F

1.—“Whereas it is expedient to consolidate and amend...Stamps”  
—(Continued).

(2) Consolidate and amend the law.

- (a) The Hon'ble Sir James Westland moved for leave to introduce a Bill to consolidate and amend the law relating to stamps. He said:—“During the last forty years there have been three general Stamp Acts; first that of 1862; then that of 1869 which consolidated and amended the Act of 1862; and thereafter the Act of 1879 which consolidated and amended the Act of 1869. The present Act is meant to be a consolidation and amendment of the last of these Acts, that of 1879, which was introduced and passed after elaborate consideration of the subject, and very largely upon the lines of the English Stamp Act. Our Hon'ble and temporarily last colleague, Sir John Woodburn, at the last meeting of the Council told us that, in the course of time, weaknesses are discovered and brought to light in the case of every Act of every legislature, and this is the excuse which I make to the Council for bringing now before them for renewed consideration the Act which it is necessary to amend, namely the existing Stamp Act. It is natural that defects should be found in an Act of the present description, which enters so largely into the business transactions of everyday life. It is not intended to make any alteration in the main lines of the existing law applicable generally to stamps. Most of the alterations which it is proposed to make are alterations of a petty character and there are only two or three which might possibly be considered to be of any importance. “The main defects in the Act may be described as follows: First, there are cases in which the law, for want of clearness, has failed in its intention. The Stamp Law differs from most other revenue laws in this respect, that it is left very largely to a sort of automatic operation, that is to say, it is applied by persons themselves to their own transactions, and the burden of its interpretation rests, not merely upon the lawyer but upon the layman. It is all the more necessary, therefore, that in its working and in its explanation it should be as clear as possible, so that people who desire to pay duty upon their documents and who have no intention of evading the duty in any way may thoroughly and clearly understand the obligations which rest upon them. There are also cases in which we find that the provisions of the law as they stand have been evaded, partly from apparent misunderstanding and partly no doubt because a lawyer, when he is acting for his client, is bound to carry out the transaction entrusted to him in such fashion as to burden his client in the least possible measure with duty. There are some cases in which it is found in practice that the duty imposed by law upon a certain class of transactions has been evaded by carrying out the transaction in a manner in which the same result has been obtained by the payment of less duty. In these cases, it is proposed by some of the provisions which are included in the amending Bill, to levy the amount of duty which the Act of 1879 intended to levy. There are again cases which, it has been found in the experience of the last eighteen years, have not been adequately provided for; and I say this both in the interest of the revenue and in the interests of the persons who are chargeable with duty. There are cases in which greater facilities may be given to the public than are afforded by the present law and there are cases in which petty hardships are inflicted which the present law does not enable the local officers to meet. “In two or three of these cases the defects have been remedied by previous amendments, there having been, since 1879, two or three amending acts. But by far the large number of the defects brought to notice from time to time have been merely examined, noted and recorded with a view of their being brought before the Legislature in a general amending Bill. These cases were all gathered together and submitted for the consideration of Local Governments and the officers whom they desired to consult, in a circular which was issued in the beginning of 1895. We have received in reply to that circular a large number of suggestions and criticisms of the law as it at present stands. Some of the suggestions which have been made to us we do not see our way to adopt, but such of them as commend themselves to us are embodied in the Bill which it is now intended to lay before the Legislature.” [See speech of the Hon'ble Sir J. Westland, 15th October 1897.] G

- (b) The Act is a complete Code. 25 M. 752.



1.—“Whereas it is expedient to consolidate and amend...Stamps”  
—(Concluded).

(3) Object of the Act.

See 13 B. 449 ; 5 Pat. L.J. 660 = 1 Pat. L.T. 360 = 65 Ind. Cas. 184 ; 65 Ind. Cas. 37. I

(4) Application.

Act not applicable to instruments executed out of British India, not affecting property in British India. 48 Ind. Cas. 187 ; 14 M. 255 (F.B.). J

(5) Construction of Stamp Laws.

(a) Provisions of laws relating to stamps and cognate matters are to be construed strictly and, whenever there is any ambiguity or doubt, in favour of the subject. 13 A. 66 (73) ; 8 C. 259 ; 30 C. 565 ; 29 B. 203 ; 16 W.R. 208 ; 12 B.H.C.R. 250 ; 13 M. 255. K

(b) Where there is a doubt in matters relating to stamps, the decision ought to be, always, in favour of, and so as to be most beneficial to, the subject ; for the subject cannot be taxed except by clear language. 9 M. 146 (143) ; 15 A. 56 ; A.W.N. (1892) 234 ; 10 C. 274 ; 37 A. 159 (F.B.) ; 27 Ind. Cas. 73. L

(c) The Stamp Act is a Revenue Act, an Act which imposes pecuniary burdens ; and the rule of construction in respect of such Act is that, in case of a doubt, the construction most beneficial to the subject is to be adopted. The subject is not to be taxed unless language is clear and unambiguous. 10 M. 274 (282). M

(d) Wilson, J.—“The Stamp Act in India ought to be construed according to the same principles of construction as the Stamp Act in England and the earlier Stamp Act in this country.” 16 C. 435. N

(6) Construction of instrument—Sufficiency of stamp.

The document, as it stands, must be taken into consideration in determining the question whether it is sufficiently stamped or not ; and evidence ought not to be admitted to construe it to be other than what it is or purports to be. 27 B. 279. See, also, 32 C.L.J. 75 ; 24 M. 259 ; 16 C. 432 ; 5 B.L.R. 103 ; 6 Bom. L.R. 699 ; 4 C. 885. O

(7) Bombay Regulation XVIII of 1827—Construction.

The Regulation, being an enactment imposing stamp duties upon the subject must be strictly construed in favour of the subject. 11 B.H.C. 129. P

2.—“British India.”

(1) ‘British India’ defined—General Clauses Act.

“British India” shall mean all territories and places within Her Majesty’s dominions which are for the time being governed by Her Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India. S. 3 (7) of Act X of 1897 (General Clauses). Q

(2) ‘India’ defined—General Clauses Act.

“India” shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor-General. S. 3 (27) of Act X of 1897 (General Clauses). R

(3) India—British India—Difference.

(a) India, as distinguished from British India, includes the territories of Native States. See 24 & 25 Vict., C. 67, S. 22 ; 28 & 29 Vict., C. 15, S. 3, etc. cited in Ilbert’s Govt. of India, 2nd Edn, p. 264. S

(b) But India in the wider sense, would not include French or Portuguese territory. Ilbert’s Govt. of India, 2nd. Edn., p. 265. T

2.—“*British India*”—(Concluded).

## (4) Territory of Native States.

The—are not part of British India; but their subjects are, for certain international purposes, in the same position as British subjects. See Ilbert's Govt. of India, 2nd Edn., p. 264. U

## (5) Aden, if part of British India.

Aden is part of British India, and is included in the Bombay Presidency. See Aden Laws Regulations (II of 1891). Y

## (6) Berar.

Berar is not British India. I.G. (F.D.) Letter, No. 1526 of 1875. W

## (7) Territories where Act in force or extended to.

(a) Santhal Parganas.

(b) Angul.

(c) To portion of Assam Frontier Tracts and places notified in Gazette of India Notifications, 1903, Pt. I, p. 175; 1904, Pt. I, p. 918. X

3.—“*It shall come into force.....1899.*”

## Commencement of the Act.

(a) “Unless the contrary is expressed, an Act of the Governor-General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.” General Clauses Act (X of 1897), S. 5 (3). Y

(b) “Commencement, used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force.” General Clauses Act (X of 1897), S. 3 (12). Z

Definitions <sup>1</sup>.

**2.** In this Act <sup>2</sup>, unless there is something repugnant in the subject or context,—

## NOTES.

## Old Acts:—

Act I of 1879, S. 3 (1).

## Corresponding sections in the English Acts.

33 & 34 Vict., C. 97—S. 48.

45 & 46 Vict., C. 61—Ss. 3, 9.

54 & 55 Vict., C. 39—S. 32.

1.—“*Definitions.*”

## Scope of definitions.

These definitions are only for purposes of this Act. They are not to be applied to cases under other Acts. 4 C. 665=2 C.L.R. 526=3 Ind. Jur. 515=2 Shome L.R. 28; 2 B. 19; 12 B. 232; 9 B.H.C. 99 (106); 10 B.H.C. 281=13 B.L.R. 254=21 W.R. 178=1 I.A. 34=3 Sar. P.C.J. 306 (F.C.). A

2.—“*In this Act.*”

## Stamp Law, positive juris.

The Stamp Law is positive juris; it imports nothing of principle or of reason, but depends entirely upon the language of the legislature. *Per* Taunton, J., *Morley v. Hall*, 2 Dowd. 494. B

"Banker". (1) "banker"<sup>1</sup> includes<sup>2</sup> a bank<sup>3</sup> and any person<sup>4</sup> acting as a banker:

### NOTES.

#### 1.—"Banker."

##### (1) Banker—Meaning.

- (a) "A Banker is one who receives money in trust to be drawn again as the owner has occasion for it." Tomlins; Wharton. C
- (b) Banker includes also persons or a Corporation or Company acting as bankers. (S. 3, Negotiable Instruments Act, 1881). D
- (c) As to relationship between banker and customer, see 16 C. 25. E

##### (2) Order for payment addressed to person not a banker—Stamp duty.

Where certain "chits" for specified sums of money were addressed by A to B who had previously agreed to lend him money and who was requested to pay the amounts mentioned in the "chits" to A's creditors, *held* that the chits in question did not require a stamp as the agreement did not constitute B, A's banker, within the meaning of cl. 6 (3) of the Stamp Act (I of 1879). 17 B. 684 (F.B.). F

N.B.—As to who are not bankers, see 38 P.L.R. 1912; 9 B. 378. G

#### 2.—"Includes."

##### Various meanings of "includes."

- (a) Where an interpretation clause states that an expression "includes" something, it means that the expression retains its ordinary meaning and the clause *enlarges* the meaning of the term and makes it include matters which the ordinary meaning would not include. *Rodger v. Harrison*, 1 Q.B. (1893) 167, *per* Lord Esher, M.R. H
- (b) The word "includes" signifies that the term indicated is not meant to be defined. 9 B.H.C. 99 (106). I
- (c) The word "include" in the General Clauses Act is intended to be enumerative and not exhaustive. 2 M. 5 (7)=2 Weir 123=2 Ind. Jur. 782; 13 B.L.R. 254=21 W.R. 178=10 B.H.C.R. 281=1 I.A. 84=3 Sar. P.C.J. 306 (P.C.). J
- (d) When the Legislature intends to exhaust the signification of the word interpreted, the word "means" is used. 2 M. 5 (7)=2 Weir 123=2 Ind. Jur. 782; 9 B.H.C. 99 (106). K
- (e) Where a definition 'includes' certain persons or things, it does not necessarily exclude other persons or things not so included; for, when a definition is intended to be exclusive, it would seem that the form of words is "means and includes." 4 C. 492. L
- (f) The word "includes" has an extending force and does not limit the meaning of the term to the substance of the definition. 8 C. 534. M

#### 3.—"Bank".

##### Bank.

A bank is a place where money is deposited for the purpose of being let out to interest, returned by exchange disposed of to profit or to be drawn out again as the owner shall call for it. Wharton. See also, 18 M. 390; 19 B. 352; 29 A. 773; 31 C. 519. N

#### 4.—"Person."

##### "Person" defined—General Clauses Act.

"Person" shall include any company or body of individuals, whether incorporated or not. S. 3 (39) of Act X of 1879 (General Clauses); see, also, S. 3 (22) of Act I of 1891 (General Clauses, Madras). O

(2) "bill of exchange"<sup>1</sup> means<sup>2</sup> a bill of exchange "Bill of exchange," as defined by the Negotiable Instruments Act, 1881, and includes<sup>3</sup> also a hundi<sup>4</sup>, and any other documents entitling or purporting to entitle any person<sup>5</sup>, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money :

#### NOTES.

##### 1.—"Bill of exchange."

##### (1) Bills of exchange.

(a) "The Act as it present stands necessarily quotes documents by their English names—quotes, for example, a bill of exchange. A bill of exchange is a document which is established in a very well-known form by English Mercantile law. In this country, very naturally, the English forms of these documents are not the same as those adopted by native merchants in their transactions ; and questions have consequently arisen with reference to mercantile documents which have the same purpose in Indian commerce that bills of exchange have in English commerce, whether they are liable to duty as bills of exchange. Now, I may mention that, in the English Stamp Act bills of exchange have got a specially wide definition. A bill of exchange for the purposes of the Negotiable Instruments Act is defined in the English Law relating to negotiable instruments. But in the English Stamp Act it is prescribed that for the purposes of that Act a bill of exchange shall mean a very much larger class of documents than is included within the definition of the Negotiable Instruments Act. We have now taken that English definition and we have brought it into our Indian Stamp Act. The result will be that we shall include, mostly under the one anna rate of duty, a number of instruments which at present escape duty because they are drawn in the native character and are not called hundis, the native hundi being the only name that is expressly included in the term, bill of exchange." See Proceedings of the Legislative Council, dated 15th October 1897.—The Speech of the Hon'ble Sir James Westland. P

(b) The definitions of "bill of exchange" and "bill of exchange payable on demand" are taken from the English Stamp Act, 1891 (54 & 55 Vict., C. 39). It will be noted that (as is the case in England) they include many instruments which could not be classed as "bills of exchange" within the definition given by the Negotiable Instruments Act, 1881, but which for stamp purposes ought to fall within the same category. See Statement of Objects and Reasons, Gazette of India, 16th October 1897, Pt. V, pp. 175—7. Q

(c) A bill of exchange is only a transfer of a chose-in-action according to the custom of merchants ; it is an authority to one person to pay to another the sum which is due to the first. *Per* Grose, J., *Mead v. Young*, 4 T. R. 32. R

(d) As to what is not a bill of exchange, see 1 N.W.P. 143 ; 27 B. 150 ; 25 W.R. 80. S

##### (2) Bill of exchange and promissory note distinguished.

The distinction in general structure and character which exists in a bill of exchange and a promissory note, is thus pointed out by Dr. Story. In a bill of exchange there are usually three original parties, the drawer, the payee, and the drawee, who after acceptance becomes the acceptor. In a promissory note, there are but two original parties, the maker and the payee. In a bill of exchange the acceptor is, in contemplation of law, the primary debtor. When a negotiable note has been endorsed by the payee, then there occurs a striking resemblance in the relation of the parties upon both instruments, although they are not in all respects identical. The indorser of a note stands in the same relation to the subsequent parties to it as the drawer of a bill : Hence the rights and liabilities of parties to bills may readily be applied to determine the mutual obligations of the parties to promissory note.—Brown's Com. Law. T

1.—“*Bill of exchange*”—(Concluded).

## (3) Conditional promise to repay.

A document, which appeared to be in the nature of an unconditional order, directing a certain person to pay a certain sum of money to a certain other person, and which the lower Court held to be a pro-note, was held by the Chief Court to fall within the definition of a bill of exchange, notwithstanding the concluding clause of the bill, which contained a promise (conditional on his meeting the bill) to repay the plaintiff at a specified date. 61 P.R. 1888. See, also, 8 C. 534; 16 M. 283; (1914) M.W.N. 58=26 M.L.J. 19. U

## (4) Agreement for sale of goods—Arbitration clause also—Stamp duty.

See 15 M. 150; 39 C. 669; 40 C. 219. Y

## (5) Bill of exchange—First of exchange stamped with one anna—Whether stamp duty necessary on second of exchange,

A second of exchange, payable on demand, does not require to be stamped with a stamp of one anna, when the first of exchange has been stamped with a stamp of one anna. 4 L.B.R. 320 (F.B.). W

2.—“*Means*.”

“*Means*”, the term when used.

The Legislature uses the word “*means*” when it intends to speak exhaustively. 9 B.H.C.R. 99 (106); 2 M. 5 (7). X

3.—“*Includes*.”

Scope of the term “*includes*”.

The word “*includes*” has an extending force and does not limit the meaning of the term to the substance of the definition. 8 C. 534 (536). Y

4.—“*Hundi*.”

## (1) Hundi—Bill of Exchange.

Hundi does not include a Bill of exchange though the latter may include the former. 51 Ind. Cas. 88=23 C.W.N. 534=29 C.L.J. 305. For a distinction between the two, see 6 B.H.C.R.O.C. 24. Z

## (2) Jokhami Hundi.

See 4 B. 333.

## (3) Shahjogi Hundi—Bond—Admissibility in evidence.

A Shahjogi hundi is only payable to the respectable holders and is not equivalent to a hundi payable to the bearer. It is not a bill of exchange nor a promissory note, but a bond within the meaning of the Stamp Act and is admissible in evidence under S. 35 (a) on fulfilment of the conditions mentioned therein. 22 C.L.J. 209=19 C.W.N. 1326=33 Ind. Cas. 250 (26 A. 493; 29 B. 82; 22 C.L.J. 22, F.) See in this connection 5 C.W.N. 313; 7 B.L.R. 725; 18 B. 570; 16 Bom. L.R. 434. A

5.—“*Person*.”

Meaning of “*certain*” in the expression “*a certain person*.”

(a) The expression “*a certain person*” in Ss. 4 and 5 of the Negotiable Instruments Act incorporated in Ss. 2 (2) and 22 of the Stamp Act means a person who is capable of being ascertained at the time when the bill of exchange is accepted or the promissory note is made. When, therefore, by an instrument which in all other respects is a promissory note within the meaning of the Negotiable Instruments Act, the sum named therein is made payable on a future date to “*the members for the time being*” of a specified firm, it is not a promissory note as defined by that Act. 5 L.B.R. 102=4 Ind. Cas. 293. See in this connection 47 Ind. Cas. 551=11 Bur. L.T. 87. B

## 5.—“ Person ”—(Concluded).

- (b) If, however, the person to whom money is made payable by such an instrument is a certain person within the meaning of the Act, the fact that the money is expressed to be payable to him or his representatives will not affect the validity of the instrument as Promissory note, for on the true construction of the instrument the money is payable in the first instance to such person and his representatives are merely agents to receive payments on his behalf. 5 L.B.R. 102=4 Ind. Cas. 293. **C**

“ Bill of exchange  
payable on demand.”

(3) “ bill of exchange payable on demand ” includes—

- (a) an order for the payment of any sum of money <sup>1</sup> by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;
- (b) an order for the payment of any sum of money weekly, monthly or at any other stated periods ; and
- (c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn :

## NOTES.

Corresponding provision in the English Acts.

Ss. 54 and 55 Vict., C. 39—S. 32.

## 1.—“ An order for the payment of any sum of money.”

(1) Order for the payment of money, and an assignment of a debt.

- (a) “An order for payment of money, though expressed to be payable out of a definite debt or fund, must be properly stamped as a bill of exchange, and if not stamped at the time of issue, cannot be stamped afterwards. But an order for payment out of a debt accruing due under a contract as for goods sold, or for work and labour or the like, is an assignment of a debt which must be stamped as a transfer of property.” Leake. **D**
- (b) Further, “an order for the payment of money presupposes moneys of the drawer in the hands of the party to whom the order is addressed, held on the terms of applying such moneys as directed by the order of the party entitled to them. No such obligation arises out of the ordinary contract of sale. If a purchaser buys goods of a manufacturer or tradesman, he undertakes to pay the price to the seller, not to a third party who is a stranger to the contract, nor will the mere order or direction of the seller to pay to a third

## 1.—“An order for the payment of any sum of money”—(Concluded).

party impose any such obligation upon him ; it is only when and because the right of the seller to the price has been transferred to the third party by an effectual assignment that the assignee becomes entitled as of right to the payment.” *Per Cockburn, C. J., Buck v. Robson*, 3 Q. B. R. p. 691. E

- (c) Hence the following letter—“I hereby assign to Messrs. Robson & Son, boat-builders, Sunderland, the sum of £40, or any other sum now due or that may hereafter become due in respect of the steam-launch which I am now building for you. I will thank you to hold the same at their disposal, and their receipt for the amount will be a full and sufficient discharge,”—was held to be not an order for the payment of money but an assignment of a debt, (*Ibid.*) F
- (d) “An order from a creditor to his debtor under an ordinary contract for the price of goods or for work and labour or the like, to pay to a third party can confer a right on the latter only so far as it operates as an assignment of the debt.” *Per Jessel, M. R., Fisher v. Calvert*, 27 W.R. 301. G
- (e) And so the following—“I hereby authorise and direct you to pay to the plaintiffs or their order the sum of £140 out of the moneys now due or hereafter to become due to me under the will of my late father, and before making any payment to me thereout,” was held to be an equitable assignment and not a bill of exchange. (*Ibid.*) H

## (2) Documents not falling within the words.

- (a) A letter from a debtor ordering payment out to a creditor of money due to the former from a third person, for goods sold to him, is an assignment of the debt and must be stamped as a conveyance. It does not fall within this definition. 27 B. 160=4 Bom. L. R. 951. I
- (b) A written direction from a master to a servant for the payment of money belonging to the former in the hands of the latter does not come within the scope of these words. 1 N. W. P. H. C. 143. J

(4) “bill of lading”<sup>1</sup> includes a “through bill of lading,” but does not include a mate’s receipt:  
 “Bill of lading,”

## NOTES.

## Old Acts :—

*Act I of 1879, S. 3 (3)* :—“Bill of lading means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated.”

*Act XVIII of 1869, S. 3, cl. 4.*—Same as the definition in *Act I of 1879*.

## Corresponding provisions in the English Acts.

54 & 55 Vict., C. 39—S. 40.

33 & 34 Vict., C. 97—S. 56.

## 1.—“Bill of lading.”

## (1) Bill of lading.

- (a) A bill of lading is a written acknowledgment by the master of a vessel that he has received goods from the shipper, to be conveyed on the terms therein expressed to their destination, and to be then delivered to the parties therein designated. The ordinary practice is this ; when goods are sent on board ship, the master or person acting for him gives a receipt for them, and the master afterwards signs three parts of a bill of lading ; one of which is

1.—“ *Bill of lading* ”—(Concluded).

retained by the Captain, another is transmitted to the consignee, and a third is held by the consignor himself for his own security. The bill of lading specifies that the goods sent are to be delivered to the consignee or his assigns or order, or to the order or assigns of the consignor or to order or assigns merely; and, according to the form of the instrument, it usually passes either by delivery or indorsement and delivery.—Broom's Comm. Law. K

- (b) A bill of lading for the delivery of goods to order and assigns is a negotiable instrument which by indorsement and delivery passes the property in the goods to the indorsee, subject only to the right of an unpaid vendor to stop them *in transitu*. The indorsee may deprive the owner of this right by indorsing the bill of lading for valuable consideration, although the goods are not paid for, or bills have been given for the price of them which are certain to be dishonoured, provided the indorsee for value has acted *bona fide* and without notice. Although a bill of lading is a negotiable instrument it is so only as a symbol of the goods named in it.—Broom's Comm. Law. L
- (c) “ A bill of lading is the written evidence of a contract for the carriage and delivery of goods sent by sea for a certain freight. The contract in legal language is a contract of bailment. In the usual form of the contract the undertaking is to deliver to the order or assigns of the shipper. By the delivery on board, the ship master acquires a special property to support that possession which he holds in the right of another, and to enable him to perform his undertaking. The general property remains with the shipper of the goods, until he has disposed of it by some act sufficient in law to transfer property. The indorsement of the bill of lading is simply a direction of the delivery of the goods:” *Per Lord Loughborough, Lickbarrow v. Mason*, 2 T.R. 72. M
- (d) “ It is an acknowledgment under the hand of the captain, that he has received such goods, which he undertakes to deliver to the person named in that bill of lading. It is assignable in its nature:” *Per Buller., J., Caldwell v. Ball*, 1 T.R. 216. N
- (e) “ It is a receipt for goods, stating the terms on which they were delivered to and received by the ship, and therefore excellent evidence of those terms, but it is not a contract. That has been made before the bill of lading was given :” *Per Lord Bramwell in, Sewell v. Burdick*, 10 A C. 105. O

## (2) Receipt by an Inland River Navigation Company.

Receipt issued by an Inland River Steam Navigation Company for goods shipped with them for transit from one place to another was held to be a—  
30 C. 555. P

“ Bond ”

(5) “ bond ” <sup>1</sup> includes—

- (a) any instrument whereby a person obliges himself to pay money <sup>2</sup> to another, on condition that the obligation shall be void <sup>3</sup>, if a specified act is performed, or is not performed <sup>4</sup>, as the case may be :
- (b) any instrument attested by a witness <sup>5</sup> and not payable to order or bearer <sup>6</sup>, whereby a person obliges himself to pay money to another : and
- (c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce <sup>7</sup> to another :



## NOTES.

## Old Acts:—

*Act I of 1879, S. 3 (4):*—Same as above except that in this Act the word *includes* has been substituted for 'means' in the Act of 1879.

*Act XVIII of 1869, S. 3, cl. 5* :—Did not contain cls. (b and c), *supra*.

## I.—“Bond.”

## (1) Bond—Definition of.

The definition of “bond” in the Stamp Act is not exhaustive; the word “includes” in cl. 5 of S. 2 has an extending force, and does not limit the meaning of the term to the substance of the definition. 8 C. 534. See, also, 2 L.L.J. 224. Q

## (2) Bond—Condition.

(a) An instrument reciting that A had sold a shop to B for Rs. 620, of which B had paid Rs. 25; and that on receiving the balance A would execute a conveyance, but that if he retracted he should pay B Rs. 50, was held to be a bond. 4 P.R. 1866. R

(b) An instrument which contains an agreement to sell a house for Rs. 600 or in default to pay Rs. 50 as damages is a conditional bond. 47 P.R. 1866. S

(c) An agreement to pay a pleader a certain sum in the event of the case terminating successfully is a bond. 82 P.R. 1870. T

(d) An agreement in writing to pay a pleader Rs. 350 in any event is not a bond. 86 P.R. 1869. U

## (3) Covenant with penalty attached and bond.

“The definition of a bond in S. 3 (5) of the Act XVIII of 1869, is precisely what we understand by a bond in England, and it is an obligation of a different character from a covenant to do a particular act, the breach of which must be compensated in damages.” *Per* Garth, C. J., 8 C. 284 (286)=10 O.L.R. 219. Y

“Whether a penal clause is attached to such a covenant or not, the remedy for the breach of it is in form and substance a suit for damages; and by S. 74 of the Indian Contract Act, the English rule with regard to liquidated damages is abolished, and the plaintiff in such a suit has no right under any circumstances to claim the penalty itself as such. He can only recover such compensation, not exceeding the amount of the penalty, as the Judge at the trial considers reasonable but he is entitled to that compensation, whether he proves any actual damages or not.” (*Ibid.*) W

“The remedy upon a bond is very different. The plaintiff in the case of a simple money bond recovers the sum named in the bond or in the case of a bond conditioned for the performance of covenants, he recovers the actual damage which he can prove that he has sustained. In either case not only is the bond a contract of a different form and nature from a covenant with a penal clause, but the remedy upon it, and the amount recoverable for the breach of it, is also different.” (*Ibid.*) X

## (4) Security bond given by receiver charging property whether chargeable both under Court Fees Act and Stamp Act.

Where a bond is executed in favour of the Court by the Receiver, whereby certain immoveable properties are charged: *Held*, that the bond must be stamped both under the Court Fees Act and under Art. 40 of Sch. I of the Stamp Act, as it comes within the definition of a mortgage in the Stamp Act and consequently Art. 15 is inapplicable. (1920) M.W.N. 245=43 M. 363=38 M.L.J. 503=12 L.W. 597=57 Ind. Cas. 184 (F.B.). Y

2.—“*Obliges himself to pay money.*”(1) **Acknowledgment not a bond.**

- (a) A document, which, in form, is merely an acknowledgment, is not converted into a bond merely because it contains memoranda as to rate of interest and is attested by witnesses. To be a bond, a document must, by itself, create an obligation to pay money. 22 C. 757; 7 B.L.R. 510. Z
- (b) *Khata* in the name of a debtor acknowledging the receipt of amount advanced and bearing the signature of the writer, *held* not a bond but a mere acknowledgment. 14 B. 511. A
- (c) A written promise to pay a barred debt is not a bond and does not require to be stamped by any of the provisions of the Stamp Act. 73 Ind. Cas. 652 = A.I.R. (1923) Lah. 481. B
- (d) An agreement to lend money does not create an obligation to pay money within the meaning of S. 2 (5) (b) and is not chargeable as a bond. 33 B. 426 = 11 Bom. L.R. 386 = 2 Ind. Cas. 432. C

(2) **Promise to pay money.**

An instrument stamped with an one anna stamp admitting liability under an old account, agreeing to pay interest on the sum found due at a certain rate and to pay the principal on demand and attested by witnesses *held* to be a bond and liable to stamp duty as such. 8 B. 297 (F.B.). D

(3) **Bond—Dishonour of *hundi*.**

An instrument, which is in the nature of a bond, is not the less a bond because it does not come into operation unless and until the *hundi*, with respect to which it is passed, has been dishonoured. 20 E. 791. E

(4) **No obligation to pay money in first instance.**

- (a) A document whereby the executant covenants to do or to abstain from doing a certain act and agrees, in case of breach of the covenant, to pay, as liquidated damages, a certain sum of money to the obligee is not a bond but an agreement and is liable to stamp duty as such. 7 B.L.R. O C. 510; 8 C. 284 = 10 C.L.R. 219. F
- (b) An agreement, whereby a certain person contracts to serve another for a certain number of years, subject to a penalty, in case of breach, of a certain amount, is merely an agreement and not a bond. 14 M. 18. G

3.—“*On condition.....void.*”(1) **Obligation on whom.**

The words on condition, etc., refer to the obligor, and the performance or the non-performance of the act is incumbent on him and not on the obligee. *Per* Oldfield, J., in 2 A. 654 at p. 663. H

(2) **Unconditional promise to pay—Pro-note.**

Where the payment of money is not dependent upon any condition and the promise to pay is absolute, the instrument will be a promissory note and not a bond. 8 C. 534 (536). I

(3) **Cheque—Post-dated.**

A post-dated banker's cheque is available in the hands of its holder and is admissible in evidence with only a one anna stamp. 6 Bom. L.R. 699. J

4.—“*If a specified act.....performed.*”(1) **Provision for penalty.**

An instrument, whereby one party thereto binds himself, in the event of a breach on his part of any of the conditions laid down therein, to pay a penalty to the other party may be regarded as a bond. 2 A. 654 (F.B.). K

*Per* Stuart, C.J.—The Penal clause ought not to be regarded separately as a bond, but as one of the clauses going to make up the whole agreement. (*Ibid.*) L

## 4.—“If a specified act.....performed”—(Concluded).

## (2) Attested agreement to deliver merchandise with a penal clause not bond.

An agreement to deliver merchandise for consideration under a penal clause providing against the breach of covenant is not a bond as defined in S. 2 (5) (c) of the Stamp Act so as to be chargeable *ad valorem* under Art. 15 of the 1st Schedule, even though it be attested by witness. Such an instrument is an agreement under Art. 5 (c) and falls within exemption (a) of the article. 9 Bur. L.T. 111=8 L.B.R. 382=33 Ind. Cas. 920. **M**

## (3) Agreement by Debenture Company—Bond.

A document by which a Debenture Company agrees to pay £230,000 for the cost of the construction of a certain railway on certain terms, and which contains a provision that the Company should be at liberty to retain £40,000 as compensation for risks, expenses, etc., must be stamped as a bond for the payment of £230,000. 15 M. 193 (F.B.) [R., 11 Bom. L.R. 386.] **N**

## (4) Document not exactly within, if a bond.

The only question for decision in this case was whether a document, whereby the defendant-appellant took upon himself the liability of another person in respect of a debt of Rs. 1,000 and agreed to get certain and mortgaged to the creditors in lieu of that sum, and that, if he failed to do so, to pay the said sum, Rs. 1,000 together with interest, was a bond: *Held*, that the definition of bond in S. 2 (5) was not exhaustive and that though the document in this case did not exactly fall within the definition, it was a bond with a condition, inasmuch as it was attested by a witness and by it the defendant-appellant obliged himself to pay certain sum of money to another, if he did not perform a specified act which he had undertaken. 2 L.L.J. 224. **O**

## 5.—“Attested by a witness.”

## (1) Attestation, what is.

(a) The attestation referred to in this section means the attestation on the face of the instrument. 26 C.W.N. 585=35 C.L.J. 459=49 C. 729=67 Ind. Cas. 780—A.I.R. (1932) Cal. 452; 8 M. 87 (F.B.). **P**

(b) A document, which otherwise is merely a pro-note, does not become a bond merely by reason of a statement entered by the scribe that he wrote it and that it is correct, such entry not amounting to attestation by a witness. 17 A. 211=14 A.W.N. 204; 14 P.R. 1902 (F.B.) [F., 3 P.L.R. 1902; R., 4 Bom. L.R. 912]; But see 10 M. 158 (F.B.); see, also, 14 B. 511. **Q**

## (2) Promissory note—Attestation.

Under the Stamp Act, a promissory note unless it is payable to order or bearer, is to be deemed a bond if attested. 9 Bom. L.R. 1034; see, also, 29 B. 82=6 Bom. L.R. 841; 13 M. 147. **R**

## (3) Entry in creditor's book.

Entry in the creditor's book of account of an acknowledgment of a debt signed by the debtor and attested by a witness is chargeable with stamp duty not as an acknowledgment but as a bond. 35 P.R. 1903=101 P.L.R. 1903. **S**

## (4) Entries of loans in account books.

Entries of loans in account books cannot be treated as bonds within the meaning of cl. 5, S. 3 of Act XVIII of 1869. 2 N.W.P. 453. **T**

## (5) Promissory Note—Bond—Unstamped document—Admissibility in evidence on payment of penalty and stamp duty.

This was a suit upon an instrument to the following effect:—“Promissory note executed on the 30th day of September, 1903 to R by C. I promise to pay you or your heirs, on demand the sum of rupees forty with interest at one per cent. per mensem on the said amount”. The document was attested by witnesses and bore a one anna adhesive stamp. *Held*, that the instrument was a bond and not a promissory note and could consequently be admitted in evidence on payment of penalty and stamp duty under S. 35 (a) of the Stamp Act, 33 M.L.J. 603=43 Ind. Cas. 55. **U**

## 5.—“Attested by a witness”—(Concluded).

## (6) Bond—Agreement of sale between two merchants—Attestation.

An ordinary agreement for a sale of cotton between two merchants, when attested by a witness, becomes a bond. 8 Bom. L.R. 234. Y

## 6.—“Not payable to order or bearer.”

## (1) Promise to pay not to bearer or order.

An instrument, containing a promise to pay money to another, which is not payable to order or bearer but is attested by witnesses, *held* to be not a promissory note but a bond. 29 B. 82=6 Bom. L.R. 841; 10 M. 258; 13 M. 147. W

## (2) Bond—Promissory note.

An instrument evidencing an unconditional agreement to pay a certain sum of money only, the payment not being expressed to the bearer thereof and the name of the payee being not apparent on the face of it, must be treated as a bond and should be stamped as such. 3 Bom. L.R. 699; see also, 8 M. 87; 22 C.L.J. 22. X

## (3) Document not attested by witness—Obligation to pay money to another not payable to order or bearer—If bond.

A document not attested by a witness whereby a person has obliged himself to pay money to another not payable to order or bearer is not a bond and stamp duty payable on such instrument is not that payable on a bond. 2 Pat. L.W. 225=(1917) Pat. 345=2 Pat. L.J. 636=41 Ind. Cas. 693. Y

## 7.—“Grain or other agricultural produce.”

## (1) Agreement to deliver grain on demand.

An — is not a pro-note. 73 Ind. Cas. 465; A.I.R. (1924) Oudh. 106. Z

## (2) Borrowing and promising to return grain.

An attested instrument, whereby the obligor borrows a certain quantity of grain and agrees to repay a larger quantity of grain, is a bond and liable to stamp duty as such, though it is silent as to the money-value of the grain. 7 B. 137; (1884) B.P.J. 257. A

## (3) Promise to pay money and grain.

A document whereby a promise is made for the payment of money and grain in a bond and not a promissory note. 4 M. 296 (F.B.); 4 B. 19. B

## (4) Promise to deliver sugar.

An instrument, reciting the loan of a certain sum of money and stipulating to deliver, in return, a quantity of sugar at a certain time and, in default, to pay a certain amount as damages and hypothecating as security, the produce of a field of sugarcane, held to be a—. 9 A. 535 (F.B.); (1882) B.P.J. 408. C

## (5) Timber not agricultural produce.

Timber is not agricultural produce within its meaning in the clause. 8 M. 15 (17). D

(6) “chargeable”<sup>1</sup> means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed :

## NOTES.

## Old Acts :—

*Act I of 1879, S. 3 (5) :—*Same as above except the italicized portion :

*Act XVIII of 1869 :—*No corresponding provision.

## 1.—“Chargeable.”

## (1) Penalty under what law leviable.

Duty chargeable on an insufficiently stamped document must be decided with reference to the stamp law in force at the time when such document was executed but the amount of penalty leviable would depend on the provisions of the Act in force at the time of such levy. 3 M. 251; 5 M. 394. L.B.R. (1893—1900) 485. E

## (2) Sufficiency of stamp—Construction of deed.

In determining whether a document is sufficiently stamped for the purpose of deciding upon its admissibility in evidence, the document itself, as it stands, and not any collateral circumstances, which may be shown in evidence, must be looked at. 16 C. 432; 27 B. 279. F

## (3) Promissory note executed out of British India.

There is nothing imperative that—is to be stamped under the Act prior to its being sued on or used in court, if the holder does not perform any of the acts mentioned in Ss. 5 and 18, see 22 M. 337; 36 M.L.J. 188=52 Ind. Cas. 477. G

(7) “cheque” means a bill of exchange drawn on a specified banker<sup>1</sup> and not expressed to be payable otherwise than on demand :  
“Cheque.”

## NOTES.

## Old Acts :—

*Act I of 1879 :—*S. 3 (6).

*Act XVIII of 1869—S. 3 (8) :—*‘Cheque includes every instrument whereby a bank, banker, or person acting as a banker, is ordered to pay on demand a specified sum of money.’

## 1.—“Drawn on a specified banker,”

## (1) Chits to person not a banker.

Chits addressed to a person, not a banker, requesting him to pay to third persons the amounts mentioned therein were admitted in evidence although unstamped, such chits not being cheques within the definition. 17 B. 684. H

## (2) Cheque—Receipt—Instrument purporting to receive money from bank and specifying name of messenger.

An instrument which purports to receive a sum of money from the saving account of a depositor with a bank and specifies the name of the messenger who is to receive payment is only a receipt and is not liable to stamp duty as a cheque. 38 P.L.R. 1912=13 Ind. Cas. 330=184 P.W.R. 1912. (17 B. 684, D.) I

## (3) Post dated Cheques.

As regards —, see 1 Bom. L.R. 715; 6 Bom. L.R. 699; 16 C. 342. J

"Chief Controlling Revenue-authority" 1.

(8) "Chief Controlling Revenue-authority" means—

- (a) in the Presidency of Fort St. George, [1] the Presidency of Fort William in Bengal and the territories respectively under the administration of the Lieutenant-Governors of [1] Bihar and Orissa and the North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue ;
- (b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner ;
- (c) in Sindh—the Commissioner ;
- (d) in the Punjab and Burma, including Upper Burma—the Financial Commissioner ; and
- (e) elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf :

### Legislative Changes—Imperial.

[1] The words "the Presidency of Fort William in Bengal" were inserted, and the words "Bihar and Orissa" were substituted for "Bengal", by Act XIII of 1916.

### NOTES.

#### Old Acts:—

*Act I of 1879*:—S. 3 (7).

*Act XVIII of 1869*:—No corresponding provision.

#### 1.—"Chief Controlling Revenue-authority".

#### Conservator of Forests.

——— is not included in the definition in S. 2 (8). B. P. J. 1898, p. 449.

K

"Collector."

(9) "Collector"—

- (a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a district ; and
- (b) includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official Gazette, appoint in this behalf :

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 3 (8).

*Act XVIII of 1869* :—S. 3 (9).

(10) “conveyance” includes a conveyance on sale<sup>1</sup> and every instrument by which property<sup>2</sup> “Conveyance,” whether moveable or immoveable, is transferred *inter vivos*<sup>3</sup> and which is not otherwise specifically provided for by Schedule I :

## Legislative Changes—Provincial.

[For Bengal ; Madras ; Punjab ; Assam ; and the United Provinces of Agra & Oudh].—To cl. (10) of S. 2, the following shall be added, namely :—“or by schedule I-A, as the case may be.—*By Beng. Act III of 1922 ; Mad. Act VI of 1922 ; Punjab Act VIII of 1922 ; Assam Act III of 1922 and U. P. Act V of 1923.*

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 3 (9)—“Conveyance” means any instrument by which property (whether moveable or immoveable) is transferred on sale.

*Act XVIII of 1869* :—S. 3 (11).

## I.—“Conveyance on sale.”

- (1) Property must be transferred on sale.

See 23 C. 283.

L

- (2) Sale of two or more items—Stamp-duty.

Where two or more items of property are sold for a certain sum of money and the value of each item is also mentioned in the instrument, the document is simply a deed of sale coming solely under the definition of “conveyance” in Act XVIII of 1869, S. 3. The stamp-duty leviable upon such instrument should be calculated upon the aggregate sum specified therein and not upon the various items for which each property had been passed. 10 B.H.C. 354. M

- (3) Letter containing admission of previous sale and receipt of consideration not a conveyance.

A “conveyance” is an instrument which transfers property from one person to another. A letter reciting an earlier sale and an earlier receipt of the consideration for that sale is not a conveyance within the meaning of S. 2 (10) and is not liable to be charged with stamp duty as such. 151 P.L.R. 1917=1 P.W.R. 1918=115 P.R. 1918=44 Ind. Cas. 261 (F.B.). See, also, 16 M. 419 (F.B.) ; 10 C. 30 (F.G.). N

- (4) Assignment of chose in action—Doubtful cases—Benefit of doubt.

(a) A letter by which a chose in action is equitably assigned does not require a stamp where it is not in British India at the time of assessment. Whenever it is in doubt whether the Legislature intended to impose a charge upon the subject in favour of the Crown, the benefit of the doubt must, as established by a legion of authorities, be given to the subject. 8 B.H.C.O.C. 169. [R. 2 C. 58 ; 23 C. 187.] O

(b) For a case where a letter assigning a debt operated as a conveyance, see 27 B. 150=4 Bom. L.R. 957. F

1.—“*Conveyance on sale*”—(Concluded).

## (5) Sale of standing trees to be cut in future.

A sale of standing trees, containing a condition against the cutting thereof at once but stating that they might be cut and removed by the vendee at a future date to be named by the vendor, need not be stamped as a conveyance. It is a memorandum relating to sale of “goods and merchandise” (Exemption A, art. 5, sch. ii) or an agreement not otherwise provided for, art. 5 (b). 22 B. 785; 14 B. 316. Q

## (6) Transfer by executors to one of them.

A — is not liable to stamp duty. But if the parties choose to draw up the deed as a sale-deed and for a pecuniary consideration, it is liable to duty as a conveyance under this article. 7 M. 350 (F.B.). See, also, 13 C. 43; 12 C. 383; 16 W.R. 208; 20 B. 432. R

## (7) Conveyance may be for a term.

See 6 B. 684. S

## (8) Contract, assignment of—Chose in action.

A document, which assigned the benefit of a contract to the plaintiff, contained the words: “I have sold the whole of my right and interest in this contract and in the goods mentioned therein to the plaintiff.” Held, that the document was a chose in action and therefore came under S. 2, cl. (10) and that an *ad valorem* stamp would be necessary. 9 Bom. L.R. 119. T

## (9) Relinquishment by mortgagor.

A document, whereby a mortgagor relinquishes his title in favour of the mortgagee and also agrees to pay the Government dues until the transfer of the mortgaged property in the latter's name in the Collector's books, is liable to stamp duty as a conveyance (S. 24) calculated on the original mortgage amount plus the amount mentioned in the deed, as also to a stamp duty as an agreement not otherwise provided for. 15 B. 675. U

## (10) Release by a benamsee purchaser.

A document, by which a *benamsee* purchaser at Court-auction relinquishes any rights he has or may be supposed to have, in favour of the real purchaser, is liable to stamp duty not as a sale but only as a release. 24 A. 372 (F.B.). But see 32 B. 505 = 10 Bom. L.R. 730. Y

“ 2.—*Property.*”

## (1) Decree.

A—of Court is property. 7 B.L.R. 318.

## (2) Policy of assurance.

A — is not property. It is only a contract with the insurance office which may or may not prove beneficial in the end. Transfer of such a policy does not amount to a “conveyance” within the meaning of this definition. *Per* Garth, C.J., in 3 C. 347, 350. (This decision was under the Old Act). W

But now it is ‘property’ and specially provided for by art. 62, sch. I, see post.

3.—“*Transferred inter vivos.*”

## (1) Deed of family arrangement.

A — by which an elder brother conveyed a *pargana* and a large sum of money in favour of his younger brother, on condition of the latter's releasing certain family property on which he had claims, held, not to be a conveyance or settlement or instrument of partition, because the transfer was not made by way of sale. 7 C. 21. X

N.B.—To meet this case the words *transferred inter vivos* were included.

## (2) Transfer of land for maintenance.

A document evidencing transfer of land, in pursuance of a widow's suit for maintenance is liable to stamp duty as a conveyance. 21 M. 422. Y



*Cases under the old Act, XVIII of 1869.*

## (1) Certificate of sale under Madras Act VIII of 1865.

A—was held not to be conveyance under the Stamp Act XVIII of 1869, 8 M.H. C.R. 112. Z

## (3) Deed of sale—Schedule—Stamp.

A schedule appended to a deed of sale does not require to be stamped under the provisions of Act XVIII of 1869, 6 M.H.C. App. 36. A

(11) “duly stamped”<sup>1</sup>, as applied to an instrument, means that the instrument bears an adhesive “Duly stamped.” or impressed stamp<sup>2</sup> of not less than the proper amount and that such stamp has been affixed or used in accordance with the law<sup>3</sup> for the time being in force in British India:

## NOTES.

## Old Acts:—

Act I of 1879—S. 3 (10).

Act XVIII of 1869:—No corresponding provision.

## 1.—“Duly stamped.”

N.B.—This sub-section defines the above expression as applied to an instrument. B  
23 A. 213.

## (1) Meaning of the words.

(a) The words ‘duly stamped’ mean stamped before, or at the time of, execution. A receipt stamped, not at the time of execution, but subsequent thereto and before production thereof before Court is inadmissible in evidence. 13 B. 484. But see 9 C.L.R. 272; 24 W.R. 198. C

(b) A deed is “duly stamped” if the stamp is affixed and cancelled at the time of execution, or if having been, at any time previously, affixed, it is cancelled at the time of execution. This was a case of a *hundi*, the stamp whereon was cancelled at the time of its delivery. 19 B. 635; 6 Bom. L.R. 699. D

(c) Pro-note written on two sheets of impressed stamp stitched together held not duly stamped. 73 P.R. 1886. E

## 2.—“Bears an adhesive or impressed stamp.”

## (1) Bill of exchange payable otherwise than on demand.

Where a bill of exchange for Rs. 500, payable otherwise than on demand, bore an adhesive stamp of a sufficient amount, held it was not ‘duly stamped’ because it was not, as it ought to have been, engrossed on an impressed sheet, 8 C. 721; 11 C.L.R. 310; 9 C.L.R. 272. See, in this connection, 23 C.W.N. 535. F

## (3) Promissory note on impressed sheet.

A pro-note for less than Rs. 200, payable otherwise than on demand, but not more than one year after date and requiring a stamp of two annas, was held to be duly stamped, when it was written on an impressed sheet of the value of two annas, notwithstanding that it bore word “*hundi*,” 13 A. 66. G

## 3.—“Such stamp has been affixed or used in accordance with law.”

## (1) Writing on the reverse side of stamp.

— is neither an offence nor will it render a deed not duly stamped, notwithstanding Rule 5 (e) of the Governor-General in Council, dated the 3rd March, 1882. The above rule providing for addition of plain sheets of paper, in case the space on a stamp should prove insufficient, is only an enabling rule not prohibiting the writing on the reverse of a stamp. 7 M. 176 (F.B.). H

## (2) Non-attestation of plain sheets.

The fact that plain sheets of paper, attached to a stamp paper for the purpose of writing portions of instrument on, have not been attested by the executant and witnesses would not render the deed not 'duly stamped' within this section, 8 M. 532 (F.B.) *Per Turner, C.J., dissenting.* I

## (3) Absence of certificate.

The absence of a certificate from the Treasurer or the stamp-vendor, as the case may be, to the effect that a single stamp of the required denomination was not available would not render invalid a document otherwise properly stamped. 18 C. 39; 7 M.H.C.R. 36. J

## (4) Omission of endorsement.

The omission of a stamp-vendor to make, on the back of a stamp, the endorsement required to be made by the Rules of the Local Government does not render the deed not 'duly stamped.' 11 M. 377 (F.B.). K

## (5) Accidental injury to stamp.

A stamp paper delivered to a Court for engrossing a sale certificate on was inadvertently punched but the certificate was engrossed thereon and delivered to the party. *Held*, the deed was "duly stamped" notwithstanding its having been punched. 18 M. 235 (F.B.). L

(12) “executed” and “execution”<sup>1</sup>  
 “Executed” and “execution,”  
 used with reference to instruments, mean  
 “signed” and “signature”:

## NOTES.

## Old Acts:—

*No corresponding provision in either of the old Acts.*

## 1.—“Execution.”

## (1) Execution, what is meant by.

(a) Execution means the last act or series of acts completing an instrument (i.e.) the formal completion of a document. In the case of a *hundi*, its execution is incomplete until delivery. It is enough if it is stamped and the stamp is cancelled at the time of its delivery. 19 B. 635. M

(b) As “execution” means signature under S. 2, and an instrument which becomes chargeable with stamp duty only on being executed is not liable to duty until it is signed. 9 L.B.R. 77 (F.B.)=7 Bur. L.T. 48=22 Ind. Cas. 75. N

(c) As regards signing, see 1 A. 586; 86 A. 11; 18 B. 586; 7 M.H.C.R. 358. N-1

(d) Unsigned Burmese documents made since the Stamp Act of 1899 came into force cannot be treated as ‘executed’ for the purposes of the Stamp Act. Such a document is admissible in evidence and is not excluded by the fact that it was not stamped. 4 U.B.R. 80; 66 Ind. Cas. 360. O

## I.—“Execution”—(Concluded).

- (e) There is nothing to show that, in the Stamp Act of 1879, it was intended to exempt from stamp duty instruments executed otherwise than by signing. The plaintiff sued for redemption of a mortgage, alleging that the mortgage was recorded on a *parabaik* in the possession of the defendant. The defendant denied having any such document. *Held* (1) that the *parabaik* document, though not signed, was *executed* within the meaning of the Stamp Act (I of 1879) then in force, and therefore was not exempt from stamp duty; (2) and that secondary evidence of the contents of the unstamped document was not admissible, though the defendant was alleged to be withholding it. U.B.R. 1907, 4th Qr., Execution—Signing, 5 (U.B.R. 1892—1896, Vol. I, 302; U.B.R. 1897—1901, II, 365; 421; U.B.R. 1907, Ex. Signing p. 1; 26 I.A. 26; 19 B. 635, R.) F.

## (2) Received bill bearing uncanceled adhesive stamp—Stamp duty chargeable.

A document which, on the face of it, purports to be a bill or account of monies due for goods supplied, and contains the words “received payment” and the signature of the persons to whom the money was due, is a document chargeable with stamp duty, the same being a receipt. 1 L.B.R. 281 (9 A. 210; *Millen v. Dent*, (1847) Q.B. 846, *F.*) Q

“Impressed  
stamp.”

(13) “impressed stamp” includes—

(a) labels affixed and impressed by the proper officer,  
and

(b) stamps embossed or engraved on stamped paper:

## NOTES.

Old Acts:—

*No corresponding provision in either of the old Acts.*

(14) “instrument”<sup>1</sup> includes every document by which  
any right or liability is, or purports to be,  
“Instrument”, created, transferred, limited, extended,  
extinguished or recorded:

## NOTES.

## I.—“Instrument.”

## (1) Entries in a register—Sum payable for letting out certain machines—Thumb mark by parties—Memorandum of agreement—Instrument.

Certain entries were made, in the third person, in a register of sums payable, with respect to the letting out of certain machines, and bore the thumb marks of the parties. They were to the effect that a certain party hired a machine in consideration of a certain rent and would pay the hire at the time specified therein, and in default would pay interest at a certain rate and further that the hirers would return the machine hired at their own cost. *Held*, that the document was an instrument, as defined in S. 2, sub-S. 14 and the contents of the document fell within the terms of Art. 5 of the Act, being a memorandum of agreement within the meaning of that article, and was required to be stamped with an eight anna stamp, 11 A.L.J. 966=36 A. 11=21 Ind. Cas. 601 (F.B.). R.

## 1.—“Instrument”—(Concluded).

- (3) Letter containing statement of a credit entry in writer's accounts with rate of interest, and a promise to repay same with interest—Memorandum of agreement—Instrument—Liability to pay duty.

*Held* <sup>3</sup>(Ormond, J., dissenting) that a letter, acknowledging the receipt of a certain sum of money, as having been borrowed, two months before, for particular period and at a particular rate of interest and stating that the loan had been duly entered in the writer's books and that it will be repaid with interest on the due date, was an “instrument,” as defined in S. 2 (14) of the Stamp Act, 1899, and was chargeable as a memorandum of agreement, under Art. 5 (b) of the first schedule to the Act, with a duty of 8 annas. 4 L.B.R. 324=14 Bur. L.R. 292 (13 M. 255, R.). S

(15) “Instrument of partition”<sup>1</sup> means any instrument whereby co-owners<sup>2</sup> of any property divide or agree to divide<sup>3</sup> such property in severalty, and includes also a final order<sup>4</sup> for effecting a partition<sup>5</sup> passed by any Revenue-authority or any Civil Court and an award<sup>6</sup> by an arbitrator directing a partition :

“Instrument of partition.”

## NOTES.

## Old Acts:—

*Act I of 1879*:—S. 3 (11).

*Act XVIII of 1869*:—S. 3 (22).

## 1.—“Instrument of partition.”

- (1) Receipts by members of a Hindu family.

Receipts given by some members of a Hindu family to the others whereby each acknowledges receipt of certain property made over to him, and his liability to pay a definite share of the family debt, reciting that a division of family property had been previously effected are instruments of partition. Each instrument is liable to stamp duty on the value of the share taken by the executant of the receipt. 15 M. 164 (F.B.). See 47 B. 321=25 Bom. L.R. 112=73 Ind. Cas. 718. T

- (2) Award directing a partition.

An award whereby the arbitrators indicate the division of property among the rival litigants is an instrument of partition within the meaning of this clause. 8 Bom. L.R. 869=31 B. 68. U

- (3) Agreement to divide according to an award.

An agreement, among co-sharers of an undivided Hindu family, to divide their family property according to the terms of an award passed by certain arbitrators is an “instrument of partition,” within the above definition. 15 B. 677; see, hereon, 19 M. 290; 20 M. 490. Y

- (4) Release.

(a) A release by a Hindu son to father as representing the whole family, whereby the former relinquishes his rights over the general property in consideration of certain lands being allotted to him for life and certain debts incurred by him being paid, *held* not a deed of partition but a deed of release. 18 M. 233 (F.B.); *contra*, 12 Bom. L.R. 936, *infra*. W

## 1.—“Instrument of partition”—(Concluded).

- (b) A document executed by two brothers purported to relinquish their right to certain property in favour of another brother of theirs, and provided that the latter was to discharge certain debts and pay an annuity to both the executants. The document was held liable to be stamped as a release only because the provisions in favour of the executants were a mere recital of the consideration for the release and created no interest in their favour so as to necessitate additional stamp duty as regards such provisions. 9 B. 417. [Appr., 18 M. 233 (F B)]. X
- (c) In a joint Hindu family consisting of three brothers, one of them first agreed to take, in lieu of his share in the family property moveable and immoveable, a certain amount in cash and certain securities for money in the form of bonds securing debts due to the family; and executed a document in the form of a release in favour of the eldest brother. On the next day, the other brother passed to the same eldest brother a document in the form of a release, whereby he and the eldest brother divided the remaining family property by the latter handing over to him securities for money: Held, that the first document was an instrument of partition, for its effect was to divide the property of the three co-owning brothers between the executant on one side, the two brothers, on the other. Held that the second document also amounted to an instrument of partition, as by the same the two remaining co-owners divided their property in severalty. 12 Bom. L.R. 936= 8 Ind. Cas. 632; See, also, 5 B. 232; *contra*, 18 M. 233, *supra*. Y

## (5) Account or list of share.

- (a) An — of one member of a Hindu family in the family property signed by such member and attested by the remaining members is not liable to stamp duty as an instrument of partition, notwithstanding the fact that it recites that the parent of the family should enjoy certain specific lands and that the family debts should be divided at a future date; so far as the agreement for division of the debts is concerned, it is liable to a stamp duty as an agreement not otherwise provided for. The list is altogether exempt from duty. 7 M. 385 (F.B.); *contra* 32 B. 509, *infra*. Z
- (b) Lists of money bonds and lands prepared by members of a joint Hindu family indicating what portion has gone to the share of each at a private partition whereafter they begin to live separately, are to be deemed instruments of partition. 10 Bom. L.R. 728=32 B 509. *Contra* B.P.J. 1893, p. 203. A

## (6) Deed of family arrangement.

A deed of family arrangement by which one conveyed a pargana and a sum of money to his brother, in consideration of the latter releasing certain family property on which he had claims is neither a conveyance nor a settlement, nor an instrument of partition within the meaning of Act I of 1879. 7 C. 21. B

## (7) Deed for the dissolution of partnership.

Where the partners in a partnership business by a deed divide between themselves certain debts of the firm to be collected and appropriated; but remain joint regarding the other items of business, the deed must be construed as a partition deed and not as a deed for the dissolution of partnership, for the purposes of the Act. 3 Bom. L.R., 132. C

## 2.—“Co-owners.”

## Document between persons not really co-owners.

A document between persons not really co-owners, but incorrectly styling themselves to be co-owners, agreeing to divide property in severalty falls within the above definition. 12 M. 198. D

## 3.—“Divide or agree to divide.”

## (1) Divide—Meaning.

See 11 M.L.A. 75; 13 M.L.A. 81. E

3.—“*Divide or agree to divide*”—(Concluded).(2) **Agree to divide.**

See 1 I.A. 9 ; 13 B. 25 ; 9 B. 115.

F

(3) **Agreement for partition.**

(a) An agreement for partition between certain members of an undivided Hindu family, some portions whereof had been already divided, providing for division of the remaining properties, itself operates as a severance of the relationship as members of a joint family. 12 C. 96. G

(b) Where, by means of a document termed a yadast or agreement executed at Trivandrum in Andu 1090 corresponding to the year 1915 and bearing a Travancore adhesive stamp of one anna, two brothers divided their properties situated both in British and Travancore territories, the partition taking effect from the date of execution of the agreement and the properties to be enjoyed separately from the 1st Thai of Andu 1090 corresponding to the 14th January, 1915, and it was also provided in the said document that separate partition deeds should be executed for the properties in Travancore and British India and that it was to remain in force till then. Held (on a reference as to the proper stamp duty leviable on such a document) the deed was chargeable as a contract of partition under Art. 45, 33 M.L.J. 390=11 L.W. 556=55 Ind. Cas. 965. H

4.—“*Final order by any Civil Court.*”(1) **Final order, meaning of.**

(a) The words “final order” refer to the final order of the lowest court of original jurisdiction empowered to give an order for effecting a partition at the time it is passed. 12 A.L.J. 113=36 A. 137 ; 23 Ind. Cas. 98=1 O L.J. 190 (F.B). I

(b) What would be final order, see 13 M. 87. J

(c) The words—mean not the order authorising a partition to proceed but the order passed after the partition has been made, declaring the various allotments of land. 2 A. 664. K

(d) The words do not mean final decrees but apply to some orders passed in execution. (1911) 2 M.W.N. 515=12 Ind. Cas. 769. L

(2) **Partition decree not duly stamped not to be challenged for want of stamp.**

A partition decree which had been passed on a compromise and which had been acted upon for several years cannot be challenged as invalid on the ground of its not being stamped. 67 Ind. Cas. 350. M

(3) **Civil Court's decree for partition.**

A — cannot be operative unless and until it is engrossed on stamp papers under this Act and, until the Judge signs the decree so engrossed, the suit does not terminate. 32 C. 483. N

(4) **Decree for partition on Commissioner's report.**

(a) A — under S. 396, Civ. Pro. Code, is a “final order” for partition within the meaning of the above clause and ought to be stamped as an instrument of partition as defined by the above clause. 29 B. 366=7 Bom. L.R. 308 ; 6 L.W. 488=42 Ind. Cas. 856. O

(b) So also final decree operating to effect a partition. 24 Ind. Cas. 643. P

5.—“*Partition.*”**Partition must be effected by the order to make it final.**

See (1911) 2 M.W.N. 516=35 M. 26=12 Ind. Cas. 775.

Q

## 6.—“Award.....arbitrator,”

## (1) Award or decree directing partition.

- (a) An award or decree directing a partition is an instrument of partition and parties executing a decree for partition must pay the proper Court-fee payable on their shares. 6 L.W. 448=42 Ind. Cas. 365. **R**
- (b) Award directing partition if signed by the interested parties as showing their assent to the partition directed by the arbitrators becomes in effect a deed of partition and has to be stamped accordingly even under the Act of 1869. 69 Ind. Cas. 807=A I.R. (1922) All. 283 ; 9 B. 50. **S**

**N.B.**—Now the award itself, irrespective of the signatures of the parties, is an instrument of partition (*vide* definition).

## (2) Partition deed—Award.

Under the Stamp Act of 1879, an award of arbitrators directing a partition was not included in the definition of ‘instrument of partition’ and therefore if such award was executed before the present Stamp Act came into force and the Court is satisfied that it was not put in the form of an award merely for the purpose of avoiding stamp duty, it will be received in evidence if it bears a stamp of Rs. 5 only. The mere fact that the parties have signed an award, does not necessarily constitute it a deed of partition. 29 P.R. 1915=29 P.L.R. 1916=27 Ind. Cas. 489. **T**

“Lease,”

(16) “lease”<sup>1</sup> means a lease of immoveable property<sup>2</sup>, and includes also—

- (a) a patta ;
- (b) a kabuliyat<sup>3</sup> or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immoveable property ;
- (c) any instrument by which tolls of any description<sup>4</sup> are let ;
- (d) any writing on an application for a lease intended to signify that the application is granted<sup>5</sup> :

## NOTES.

## Old Acts :—

Act I of 1879 :—S. 3 (12).

Act XVIII of 1869 :—S. 3 (15).

## I.—“Lease.”

## (1) Ijara muchalika.

An—or agreement by a proprietor of land to pay to a superior a sum of money in consideration of a grant of right to farm dues, in the nature of revenue, is a lease within the meaning of the above definition. 3 M. 342. **U**

## (2) Document creating relationship of landlord and tenant.

A—is a lease. 4 M.H.C.R. 153. **V**

## 1.—“Lease”—(Concluded).

## (3) Fresh lease.

If, after the completion of a lease by stamping, execution and registration, another document is executed with a view to effect an alteration of the first document as to the conditions, etc., the second document must be stamped and registered as a lease by itself. 20 W.R. 86. W

## (4) Lease not exceeding one year.

A lease for one year certain, with an expression, on the tenant's part, to hold the land longer at the same rent if the landlord should so desire it, is a lease for a term not exceeding one year. 3 B. 21. X

## (5) Document termed lease but in reality a mortgage.

A document termed a lease but in reality executed in consideration of receipt of a certain amount and providing that the payer should be in possession of certain land of the payee for a certain length of time and containing no condition as to repayment, held to be a usufructuary mortgage-deed and not a lease. 21 M. 358 (F.B.); see, hereon, 17 A. 55; 8 C. 254; 15 W.R. 331. Y

## (6) Zuripeshgi lease.

Nature of, see 24 C. 272=1 C.W.N. 83. Z

## (7) Marupat.

A marupat which is a counterpart of a lease or deed executed by a Malabar tenant promising certain rent must be stamped both as a counterpart and as a mortgage. 42 Ind. Cas. 943=33 M.L.J. 692=41 M. 469 (F.B.) [*Dissented* from in 43 M. 365=38 M.L.J. 506.] A

## (8) Petition for lease, if registrable—Stamp duty and penalty—Evidence.

S. 17, Act XX of 1866, does not provide for the registration of a petition asking lease. Stamp duty and penalty are not leviable on such petition, when it is used as evidence of a contract to be entered into between parties. 14 W.R. 178 [*F.*, 17 W.R. 509; *Appl.*, 7 C. 703=10 C.L.R. 121 (F.B.)]; 7 C. 717. B

## 2.—“Immoveable property.”

## (1) Grant of exclusive right to manufacture and sell rum.

Where, in consideration of payment of a sum of money, a Collector granted the exclusive right of manufacturing rum and of the sale of the rum so manufactured, the instrument passed by the Collector conferring such monopoly on the contractor is not a lease as the term ‘lease’ is applicable only in respect of immoveable property. 2 A. 654 (667) (F.B.). B-1

## (2) Agreement for lease—No premium paid—No money advanced—No rent reserved.

Not a lease—so no stamp necessary. See 31 M.L.J. 234=39 Ind. Cas. 448; 1 Pat. L.J. 366=3 Pat. L.W. 72=20 C.W.N. 923=36 Ind. Cas. 175. See, also, 47 C. 485; 12 C.W.N. 59. C

## (3) Not a lease but an admission only.

See 5 C. 861. D

## 3.—“Kabuliyat.”

## Lease includes a Kabuliyat.

It is enough, to constitute a lease, that the lessee executes a *kabuliyat* to the lessor. It is not necessary that the latter should execute a lease-deed to the former, the term “lease” including a *kabuliyat*. 8 O.C. 197. See, also, Bom. P.J. 1888, p. 41. E



4.—“*Tolls of any description.*”

## (1) Toll.

What it is—, see 15 C. 259 ; 11 W.R. 26 ; 2 M. 104.

F

## (2) Ferry.

See B. P.J. 1883, p. 11.

G

## (3) Market.

See 31 M. 54.

H

## (4) Fishery.

See 51 C. 110.

I

5.—“*Granted.*”**Mere proposal to lease.**

A mere proposal in writing to take a lease of certain land on certain conditions made by one person to another would not constitute a lease unless the proposal in writing has been so accepted that the proposal and acceptance together constitute a contract, 7 C. 703 = 10 C.L.R. 121 (F.B.) ; 14 W.R. 178 ; 17 W.R. 509 ; 17 C. 548.

J

[1] (16-a) “marketable security” means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom :

“Marketable security.”

**Legislative Changes—Imperial.**

[1] Cl. (16-a) was inserted by Act XV of 1904.

**NOTES.****Corresponding English provision.**

54 & 55 Vict., C. 39, S. 122.

(17) “mortgage-deed” includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan<sup>1</sup> or an existing or future debt<sup>2</sup>, or the performance of an engagement<sup>3</sup> one person transfers, or creates, to, or in favour of, another<sup>4</sup>, a right over or in respect of specified property<sup>5</sup> :

**NOTES.****Old Act :—**

Act I of 1879 :—S. 3 (13).

Act XVIII of 1869 :—S. 3 (18)—“Mortgage-deed” includes every instrument evidencing a pledge of property for securing the payment of money.

## 1.—“For the purpose of securing.....by way of loan.”

## (1) Document termed lease but in reality a mortgage.

A document termed a lease but in reality executed in consideration of receipt of a certain amount and providing that the payer should be in possession of certain land of the payee for a certain length of time and containing no condition as to repayment, *held* to be a usufructuary mortgage-deed and not a lease. 21 M. 358 (F.B.). K.L

## (2) Produce of land.

Money includes —, 3 A. 788 ; see, also, 48 C. 625 = 25 C.W.N. 57 = 32 C.L.J. 278. M.

## (3) Declaration on trust—Document a mortgage.

Where a document contained provisions that the person who executed a document in favour of a bank, was to be treated as a trustee for the bank and the properties being machinery, stock-in-trade, goods, chattels and effects in connection with a gold and silver-smith's business and that also contained the provisions that the trustee stood possessed of the net proceeds on behalf of the bank who advanced the monies, *held* that there was an express declaration of trust in respect of the machinery, etc., and that the instrument in question was a mortgage deed for the purposes of Stamp Act, because it created a right in respect of specified property for purposes of securing money advanced or to be advanced, and the fact that the instrument was a trust deed did not make it the less a mortgage. 14 M.L.T. 499 = 25 M.L.J. 613 = 38 M. 646 = 21 Ind. Cas. 476 (F.B.). N

## 2.—“Existing or future debt.”

## (1) Usufructuary mortgage to secure an existing debt.

An instrument by a debtor to his creditor giving possession of certain premises to the latter as a security for a debt with a condition that the debt should be discharged out of the rents and profits and that the assessment should be paid by the debtor himself, *held* to be a usufructuary mortgage. 2 M. 187 ; 7 B.L.R.A.C. 14 = 15 W.R. 331. Q

## (2) Compromise of a pending suit.

A — whereby the debtor (plaintiff) agreed to place the creditor (defendant) in possession of certain premises as security for the amount found due by the former to the latter for enjoyment of the rents and profits for a certain number of years subject to the payment of a fixed rent, *held*, to be a mortgage redeemable on the usual terms. 8 M.H.C.R. 31. (But, see, 12 C.W.N. 59) ; 2 A. 481. P

## 3.—“Performance of an engagement.”

## (1) Deposit of pro-notes.

An agreement come to between a salt contractor and the Secretary of State and reciting that certain pro-notes had been deposited by the former with the latter to secure the due fulfilment of the contract and that the same should be returned on the fulfilment of the contract, *held*, to be a mortgage within the above definition. 11 M. 39 (F.B.) But see 7 M. 209. Q

## (2) Lease and mortgage.

A deed of lease, containing covenants for payment, as rent, of money and straw to the lessor and an engagement, on the part of the lessee, securing certain property as security for the due performance of the covenants contained in the lease, ought to be stamped as a mortgage. It would also fall within the provisions of S. 5 of the Act. 17 A. 55 = A.W.N. (1894) 204 (F.B.) (8 C. 254, R.) R

## (3) Salenamah hypothecating property.

A *salenamah* or agreement come to between certain objectors in execution proceedings whereby the objectors agreed to pay the decree amount to the decree-holders and hypothecated certain property as security for the payment of the amount, *held* to be a mortgage-deed and required to be stamped and registered as such. 2 A. 481 ; see 8 M.H.C.R. 31 ; but, see, 12 C.W.N. 59. S

## 4.—“One person transfers.....to another,”

## Memorandum of a mortgage transaction.

A—entered in the mortgagee's account book in the presence of witnesses and not purporting to have been written at the instance, or under the authority, of the mortgagor is not a mortgage-deed within the meaning of the above definition. 31 P.R. 1883 (Or). T

## 5.—“Right over or in respect of specified property.”

## (1) Meaning of the word ‘specified.’

The word “specified” obviously means “specified” or mentioned in the document. 18 C. 23 (26) ; 38 M. 646. U

## (2) Hypothecation of produce of suagr-cane field.

A deed, whereby a certain person borrowed a certain sum of money as earnest money, agreeing to deliver at a certain date a certain quantity of unrefined sugar, upon which he was to receive profits, at a certain rate and the produce of a sugar-cane field was hypothecated as collateral security, the value of such produce not being stated, *held* to be a mortgage-deed coming within the above definition. 9 A. 585=7 A.W.N. 190 (F.B.). See 3 A. 788 ; 48 C. 625. Y

## (3) Stipulation not to alienate.

A—certain property, generally, would not constitute a mortgage or a charge thereon. 2 A. 449 ; 7 C. 196 (*following* 3 C. 363) ; 1 A. 240 (F.B.). W

## (4) Future surplus profits.

A fund to consist of the future surplus profits of a trade is not “specified property” within the meaning of the above definition. 11 M. 216 (F.B.). X

## (General).

## (1) How to ascertain stamp duty.

For the purpose of ascertaining what stamp duty is payable on an instrument alleged to be a mortgage, it is necessary to see if it falls within the above definition. 27 C. 587=4 C.W.N. 524. Y

## (2) Trust-deed for securing mortgage debentures.

A document was endorsed as a “trust-deed for securing mortgage debentures” and was executed for the purpose of securing money to be advanced by way of loan. It was argued, on behalf of the executants of the deed, that it cannot be regarded as a mortgage-deed, because it did not itself purport to transfer to, and vest in, the trustees any interest in the properties specified in the document. *Held* that, as the trustees were given the *right* to have the properties vested in them, to be held by them, as trustees for the debenture-holders and as security for the amount to be advanced on the debentures, and as they were given the usual rights of entry, taking possession and management, which mortgagees and trustees for debenture-holders are usually given, the deed created rights over the properties in favour of the trustees, and was mortgage deed under the definition in S. 2 (17) Stamp Act. 4 L.B.R. 2 (F.B.). (27 C. 587, R.) But see, 14 M.L.T. 499=25 M.L.J. 613.Z

## (3) Marupat.

A maruput which is a counterpart of a lease or deed executed by a Malabar tenant promising certain rent must be stamped both as a counterpart and as a mortgage. 42 Ind. Cas. 943=33 M.L.J. 693=41 M. 469 (F.B.). A

## (4) Stamp—Letters of assignment of crop.

Letters of assignment in respect of a season's crop, *held* not to be mortgage-deeds but agreements requiring a stamp of 8 annas. 2 C. 58. B

## (5) Cases not a mortgage.

See 3 M. 55 ; 7 M. 209 ; 15 M. 134 ; 1885, S.D.A. 253. C

- (18) "paper" includes vellum, parchment or any other material on which an instrument may be written :  
 "Paper."

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 3 (14).

*Act XVIII of 1869* :—S. 3 (21), same as above.

"Policy of insurance" (19) "policy of insurance" <sup>1</sup> includes—

- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;  
 (b) a life-policy and any policy insuring any person against accident or sickness, and any other personal insurance ;

[1] (c)

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## Legislative Changes—Imperial.

[1] Sub-cl. (19-c) was repealed by Act V of 1906.

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 3 (15), paras. 1 and 2.

*Act XVIII of 1869* :—S. 3 (23) —' *Policy of insurance* ' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event : it does not include a policy on life.

## I.—"Policy of Insurance."

## U.C.S. Family Pension fund—Entrance certificate.

An entrance certificate granted under the rules of the Uncovenanted Civil Service Family Pension Fund is a life policy within the above definition. If it is for an amount within Rs. 1,000, it is chargeable with a duty of six annas. It is not within the scope of S. 25 (c). 19 C. 499. D

"Policy of sea-insurance" or "sea-policy".

(20) "policy of sea-insurance" <sup>1</sup> or "sea-policy"—

- (a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or

upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel ; and

- (b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance :

#### NOTES.

##### Old Acts :—

*Act I of 1879* :—S. 3 (15), last two paras.

*Act XVIII of 1869* :—No corresponding provision.

#### 1.—“ Policy of sea-insurance.”

##### (1) Document in reality a policy of sea-insurance.

A document, not being a mere “ slip ” or memorandum of a proposed insurance, but mentioning the name of the ship, the voyage and the premium and other particulars required to be mentioned in a Policy of sea-insurance and providing for the losses being paid on its production and expressly guaranteeing the payment of the losses and claims settled on it, is a Policy of sea-insurance within the above definition. 19 B. 130. E

##### (2) Policy of sea-insurance—Protection note unstamped—Admissibility in evidence on payment of duty and penalty.

Though the document may in form appear to be a protection note, still, if, in terms it satisfies the requirements of the definition of “ policy of sea-insurance ” within the meaning of the Stamp Act, it would be open to the party to contend that it is a policy of sea-insurance and as such capable of being received in evidence subject to the payment of the stamp with the necessary penalty. The nature of the document must be determined with reference to the terms of a particular document without attempting to lay down any general test for distinguishing a protection note from a formal policy. 24 Bom. L. R. 820=67 Ind. Cas. 965. F

##### (3) Deed not liable to stamp duty as sea policy.

See 30 C. 565.

(21) "power-of-attorney" includes any instrument (not chargeable with a fee <sup>1</sup> under the law relating to Court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it <sup>2</sup>:

"Power-of-attorney,"

### NOTES.

#### Old Acts:—

*Act I of 1879:—S. 3 (16).*

*Act XVIII of 1869:—S. 3 (24):—'Power-of-Attorney' includes every instrument (except a proxy) empowering a person to act in the stead of the person executing it.*

#### 1.—"Not chargeable with a fee, etc."

##### (1) Power-of-attorney.

An instrument which authorizes a person to receive certain money and sign a receipt, but which does not empower him to do so in the name of the person executing the instrument, does not amount to a power-of-attorney. 3 Bom. L.R. 697. H

##### (2) Yakalatnamah to a pleader.

A—authorising him to receive, during the course of a suit, documents and money receivable by the client is not chargeable with a duty under this Act. 3 C. 767=3 C.L.R. 13. H.1

##### (3) Authority to apply to Collector for copies.

A document authorising a pleader to apply to a Collector for copies of certain records is chargeable only with a Court-fee duty. It need not be stamped as a Power-of-Attorney under this Act. 9 M. 146 (F.B.). I

##### (4) Yakalatnamah by persons jointly interested.

A—by a number of ryots, jointly interested in obtaining refund of a certain sum of money from an officer, authorising a certain person to appear before the officer concerned and receive the money on their behalf is sufficiently stamped with a Court-fee of 8 annas and need not be stamped under this Act. 9 M. 358 (F.B.). J

#### 2.—"Empowering a specified person.....executing it."

##### (1) Power-of-attorney in favour of person not a certificated Mukhtar or Pleader.

Where a power-of-attorney is executed in favour of a person, who is not a certificated Mukhtar or Pleader under the Legal Practitioners Act, the document should be stamped with the stamp provided for by Art. 48, *infra*, and not with a Court-fee stamp as provided for by Art. 10 of Sch. II of the Court Fees Act. 9 Ind. Cas. 617=35 A. 487=8 A.L.J. 378. See 15 Ind. Cas. 122; (1919) M.W.N. 72=18 Ind. Cas. 135. K

##### (2) Joint authority by mirasdars of a village.

Where certain mirasdars of a village authorised a certain person in writing to collect perquisites and other communal income due to them from a former agent of theirs, to cultivate their *manéms* and to distribute to them according to their respective shares their shares of the profits of certain communal land, held to be a Power-of-Attorney and liable to a stamp duty of Rs. 5. 15 M. 386 (F.B.). L

2.—“Empowering a specified person... executing it”—(Concluded).

(3) Authority to receive sums in course of a work.

An instrument authorising a person to receive, on behalf of another, such sums as should become due in the course of the execution of a certain work is not an assignment but is a Power of Attorney within the above definition. 3 B. 49. M

(4) Sunnud to a gumastah.

A—authorising the latter to collect rents and to sue for them is chargeable with stamp duty as a Power-of-Attorney. 1 B L.R. 55 (F.B.). N

(5) Deed in substance a Power-of-Attorney,

A document executed by one person in favour of another, authorising the latter to recover, by suit or otherwise, certain sums of money due from the debtor of the former, containing a proviso to the effect that, out of the amount so received, the executors of the instrument might deduct the amount due to him by the executant and pay over the balance, is a power-of-attorney within the above definition. 7 B.H.C.A.C. 10. O

“(22) “promissory note”<sup>1</sup> means a promissory note as defined by the Negotiable Instruments Act, 1881;

“Promissory note.”

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen :

### NOTES.

#### Old Acts :—

Act I of 1879 :—No corresponding provision.

Act XVIII of 1869 : S. 3 (25)—“*Promissory Note*” includes every instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight.

#### 1.—“Promissory Note.”

##### (1) Promissory note, meaning of.

(a) For purposes of stamp, an attested document, purporting to be a promissory note but not payable to bearer or order is a bond as defined in S. 2 (5) and not promissory note, but a similar document payable to order or bearer is a promissory note. 29 B. 82=6 Bom. L.R. 841; 10 M. 159; 8 M. 87 (F.B.); 13 M. 147; 37 M.L.J. 603=48 Ind. Cas. 55. P

(b) A document attested by witnesses and containing an unconditional undertaking to pay a certain sum of money only, the payment not being expressed to be to the bearer of the document and the name of the payee not appearing on the face of it, is a bond and must be stamped as such. 3 Bom. L.R. 699. Q

##### (2) Promissory Note—Bond.

Held, that a document in the following terms was a promissory note as defined in S. 2 (22) of the Stamp Act and not a bond. “Rs. 37 which remain due to ‘be paid, to be paid to Gurditta. According to this receipt, thirty-seven rupees. To be paid in two or three days. To be paid by Dhanna Singh.

## 1.—“Promissory Note”—(Continued).

“Bazas, 10th Poh Sambat 1954—Written by Das Mal, Wadhawa, at the dictation of Dhanna Singh, Stamp affixed—Signed by Dhanna Singh with “his own pen.” 3 P.L.R. 1902=14 P.R. 1902 (F.B.) [R., 93 P.R. 1902, (F.B.)] R

## (3) Entry in account book—Undertaking to pay with interest.

An entry in the plaintiff's account books signed by the defendant in Russian Territory ran in the following terms:—“.....Russain gold sums four thousands, *agreed to be paid* with interest at 8 as. per cent. on Shigarpur...” Held that the words “Agreed to be paid” amounted to an undertaking to pay and that the writing constituted a promissory note. 9 S.L.R. 150=32 Ind. Cas. 582. S

## (4) Acknowledgment coupled with promise to pay.

Though an instrument containing a mere acknowledgment of indebtedness is not a pro-note, a document which is in addition to an acknowledgment of indebtedness contains an express promise to pay the amount acknowledged to be due, is a promissory note. 8 C. 645. See, also, 8 Bom. L.R. 839. T

## (5) Varthamanam containing unconditional undertaking to pay.

In the case a Varthamanam or letter said “Amount of cash borrowed of him by me is Rs. 350. I shall in two weeks' time returning this sum of rupees three hundred and fifty with interest thereon at the rate of 1 rupee per cent. per month, get back this letter.” Held that it is clearly an unconditional undertaking, *on the face of the document*, to repay the borrowed money, and it is therefore a promissory note, and not merely an offer to borrow or an acknowledgment of indebtedness. 14 M.L.T. 520=(1914) M.W.N. 58=26 M.L.J. 19. U

## (6) Pro-note expressed to be payable at a certain place.

A promissory note does not lose its character as such, merely because it contains a promise to pay at a certain place; such a document answers the definition of a promissory note. 4 Bom. L.R. 428. Y

## (7) Note to be expressed to be payable in money only.

(a) To operate as a promissory note an instrument must contain a promise to pay money only. A document containing a promise to pay not money only, but money and paddy, is not a promissory note. 4 M. 296 (F.B.). W

(b) A document by which the executant undertakes to deliver on payment a certain quantity of grain is not a promissory note. It is an agreement requiring a stamp of annas 8 under Art. 5. 73 Ind. Cas. 465. X

## (8) Payee must be certain.

An instrument in the form of a note payable on future date to the members for the time being of a specified firm has been held not to be a promissory note as defined by this section. 5 L.B.R. 102 (F.B.). Y

## (9) Acknowledgment of indebtedness.

(a) The essential element of a pro-note is an express promise to pay. A mere acknowledgment of indebtedness without an express undertaking to pay the debt is not a promissory note. 22 B. 986; 21 M. 49; 2 M.W.N. 38; *Horne v. Redferne*, (1938) 4 Bing. N.C. 433; *White v. North*, (1849) 3 Ex. 689. Z

(b) The words “I am bound to pay” or “I am liable to pay” only constitute an acknowledgment of liability to pay and do not amount to an undertaking to pay. 21 M. 49. A

N B.—The construction depends on the actual words used rather than what their effect may be as regards the rights of the parties. (*Ibid.*) B

(c) A mere memorandum of note, drawn up in respect of transaction just settled between the parties, which contained in it a stipulation for payment of



## 1.—“Promissory Note”—(Continued).

interest but no promise to repay the money, was held to be neither a promissory note nor agreement; and it was doubted whether it was even an acknowledgment requiring to be stamped under Art. 1, Sch. I, Stamp Act. 27 A. 34=A.W.N. (1904) 196=1 A.L.J. 482. **C**

## (10) Acknowledgment coupled with promise to pay.

(a) Where a zamindar says in a document “We shall order the borrowed money to be repaid” it is only another way of saying “I shall pay”. (1913) M.W.N. 1005=14 M.L.T. 502. **D**

(b) Though an instrument containing an acknowledgment of indebtedness without promise to pay cannot be promissory note, it may be valid as an agreement and may be sued upon as such, 25 B. 373. **E**

## (11) Stipulation to forfeit payments already made on failure to make certain payments.

A document by which an executant undertakes to make certain specified payments towards the sum due and agrees that his failure to do shall render him liable to forfeit any payments he may already have made, is not a promissory note payable otherwise than on demand but only an agreement and is stampable with 8 annas only, 28 Ind. Cas. 300=8 L.B.R. 150. **F**

## (12) Instrument containing unconditional undertaking to pay a certain sum annually.

An instrument in writing which contains an unconditional undertaking to pay a certain sum of money with interest annually is not a promissory note. 68 Ind. Cas. 461=52 P.L.R. 1922. **G**

## (13) Conditional instances—Instrument.

(a) A letter requesting a loan and stating that the amount lent will be repaid, is not a promissory note because the repayment is dependent on the advances being made. 27 M. 1. **H**

(b) Thus the following letter, *viz.*, “in addition to Rs. 115 already received, Rs. 385 is also required. Please send it by the bearer, taking his acknowledgment below. The amount will be returned with interest at 12 per cent. without delay” is merely an offer for a loan and not a promissory note, as the undertaking to pay is only *conditional* on the amount being remitted as requested. 27 M. 1, *following* 13 B. 669 and 23 M. 156 (footnote) and *dissenting from* 16 M. 283. **I**

(c) A mere letter referring to a private agreement and which calls upon the addressee to act in a friendly manner and to drop certain execution proceedings and assures him that if he does so, the writer will pay up the amount in a certain time is not a promissory note. It does not require to be stamped as a promissory note. It is nothing more than a mere letter evidentiary of an agreement between the parties. 71 Ind. Cas. 968. See 27 M. 1 (F.B.). **J**

## (14) Conditional instruments—Licenses.

A document which was vague and indefinite in its terms as regards the time during which certain monthly payments ought to be consist, and as whether the instalments were payable during the life of the Manager of a Bank, to whom it had been executed, or during the whole life of the executant was held not to be pro-note. 5 A. 562. **K**

## (15) Undertaking to pay at convenience of the promisor.

Where a promissory note contained the words “I promise to pay on demand at my convenience” held that the words “at my convenience” imported a condition and therefore there was no unconditional undertaking to pay and the writing was not a promissory note, 23 Bom. L.R. 1231. **L**

1.—“*Promissory Note*”—(Concluded).(16) **Shahjog Hundi—Bond—Admissibility in evidence.**

A Shahjog hundi is only payable to the respectable holders and is not equivalent to a hundi payable to the bearer. It is not a bill of exchange nor a promissory note, but a bond within the meaning of the Stamp Act and is admissible in evidence under S. 35 (a) on fulfilment of the conditions mentioned therein. 22 C.L.J. 209=19 C.W.N. 1326=33 Ind. Cas. 250 (26 A. 493; 29 B. 82; 22 C.L.J. 22, F.) **M**

(17) **Promissory note—Collateral agreement fixing time for payment.**

Where a promissory note payable on demand is accompanied by a writing fixing a period for payment this writing may be pleaded in bar to an action brought in contravention of the same. 39 M. 129 (F.B.)=30 M.L.J. 51=19 M.L.T. 62=(1916) 1 M.W.N. 93=3 L.W. 38=32 Ind. Cas. 869, *Overruling* 19 M. 368 and 29 M. 212. **N**

(19) **Maintainability of suit—Unstamped promissory note.**

A suit based on an unstamped pro-note ought to be dismissed, as no other evidence will be admissible. 21 W.R. 1. **O**

(19) **Promissory note—Ambiguity.**

Where the wording of a promissory note bearing a one anna stamp appears to be ambiguous as to whether it is payable on demand the Court will take the evidence of the parties as to the intention, and will then decide whether it is properly stamped. Under such circumstances, the Court will take evidence of usage. 1 Ind. Jur. N. S. 107. **P**

(20) **Document not attested by witnesses and undertaking to deliver a certain quantity of grain on demand—Neither a promissory note nor a bond—Agreement.**

An instrument which is not attested and under which the maker undertakes to deliver a certain quantity of grain on demand is neither a promissory note nor a bond. It is an agreement which will fall under Art. 5 of the first schedule of the Stamp Act. A.I.R. (1924) Oudh 106. **P 1**

“Receipt.” (23) “receipt”<sup>1</sup> includes any note, memorandum<sup>2</sup> or writing—

(a) whereby any money, or any bill of exchange, cheque<sup>3</sup> or promissory note is acknowledged to have been received, or

(b) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt<sup>4</sup> or

(c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied<sup>5</sup> or discharged, or

(d) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person: and

## NOTES.

## Old Acts :—

*Act I of 1879 :—S. 3 (17)*—Same as above except that the words “or advertisement” which appeared in the Act after the word “writing,” have been omitted in this Act.

*Act XVIII of 1869 :—No corresponding provision.*

## 1.—“Receipt.”

## (1) Essential of a receipt.

The chief—is an acknowledgment. A mere statement of the fact of the receipt of money is not enough. Where a certain person made a note to the effect that another person had received money, it was *held* not to be a receipt. 23 B. 54. Q

## (2) Receipt—Payment by one officer of a firm to another for the purposes of the firm—Consideration.

See 14 C.W.N. 833 = 6 Ind. Gas. 778 = 37 C. 634 noted under Art. 53, *infra*. Q-1

## 2.—“Memorandum”

## Bank Memorandum.

A — informing a customer that money had been received from a third person on account of the customer and that the same had been credited to his account is not a “receipt” and need not be stamped as such. 4 C. 829 = 3 C.L.R. 597. R

## 3.—“Acknowledgment of receipt of cheque.”

## Acknowledgment of receipt of a cheque.

An — contained in a letter, will, if the amount of the cheque is over Rs. 20, be liable to a stamp duty of one anna. If the letter is unstamped, the writer will be liable to conviction. 11 M. 329. S

## 4.—“Acknowledgment in satisfaction of a debt.”

## (1) “Sarkhat” — Mere acknowledgment of receipt.

A “Sarkhat” or document signed by a creditor, acknowledging the receipt of sugar-cane juice, the price of which exceeded Rs. 20, but without anything to show that the sugar-cane juice had been received in part satisfaction of a bond, is not a “receipt,” within the meaning of the Act, but only a memorandum of sugar-cane juice supplied, and does not require to be stamped. 6 A. 253 = A.W.N. (1884) 72. T

## (2) Sarkhat—Memorandum of account.

Where a sarkhat, in which entries of payments and receipts were made from time to time, in order to act as an acknowledgment thereof, showed on one side sums of money advanced and on the other various sums of money repaid including certain items of more than Rs. 20, *held*, that each item of over Rs. 20 required to be stamped as a receipt. 11 A.L.J. 309 = 14 Cr. L.J. 392 = 20 Ind. Gas. 216 = 35 A. 290. U

## (3) Receipt by a barrister.

A — for a sum over Rs. 20, being the fee for his professional services, is exempted from stamp duty, because the payment is one without consideration, 16 A. 132 (F.B.); 9 M. 140 (F.B.); but see 85 P.R. 1885, which holds that such a payment is not without consideration and that the same is liable to stamp duty. V

## 5.—“Debt or demand being satisfied.”

## (1) Receipt by Secretary of a club.

A — for a sum over Rs. 20, in payment of a club bill, is liable to stamp duty. 10 M. 85 (F.B.). W

## 5.—“Debt or demand being satisfied”—(Concluded).

## (2) Unstamped letter.

An acknowledgment, by means of a letter, of the receipt of money in satisfaction of a debt is a “receipt” within the above definition; and if the amount is over Rs. 20 and if the letter is unstamped, the writer will be liable to conviction. 8 M. 11. X

## (3) Entry in Khatta book.

An entry by a creditor in a khatta book of the debtor and signed by him for payment of a certain sum of money in discharge of a debt is a “receipt” within the above definition. 11 C. 267; Bom. P.J. 1897, 41. Y

## (4) Payment by one officer of a firm to another for the purposes of the firm, if for consideration.

Certain pay orders in respect of money to be paid to creditors of a firm had been made out by the accounts department of the firm, and were sent to the cashier who paid the amount to assistants for payment to the creditors, and the assistants signed their names on the back of the pay orders in acknowledgment of receipt. *Held*, that the acknowledgments were not liable to stamp duty as receipts for payment with consideration. There was in the circumstances no contract between the cashier and the assistants. 14 C.W.N. 833=6 Ind. Cas. 778=37 C. 634. See, also, 42 Ind. Cas. 328. Z

## (5) Meaning of term “receipt.”

The meaning of the terms “acknowledged” and “acknowledgment” used in S. 2, sub-division 23 of the Stamp Act, must be limited to documents given to or issued for the benefit of the debtor, acknowledging to him the payment of money, etc., or delivery of goods, in discharge or satisfaction of his debt or the demand upon him. Obviously it could not have been intended that every acknowledgment of payment of a debt should be chargeable with stamp duty. For instance it is not to be supposed that the Legislature contemplated that a letter written by one friend to another stating that he had received payment of a debt from some third person must be stamped with an anna stamp. Accordingly a certificate to the effect that a premium on an insurance policy has been paid issued for the purpose of supporting a claim to exemption from income-tax on the amount paid and not primarily intended for use as evidence of payment between the policy-holder and the insurance company is not a receipt, and is therefore exempt from stamp duty. 3 L.B.R. 807. (*Rez v. James Harvey*, 1812, Russell and Ryan, 227; 4 C. 829; 11 C. 367, R.) A

(24) “settlement”<sup>1</sup> means any non-testamentary disposition, in writing, moveable or immoveable property made—  
“Settlement.”

(a) in consideration of marriage;

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent<sup>2</sup> on him; or

(c) for any religious or charitable purpose<sup>3</sup>;

and includes an agreement in writing to make such a disposition [4] [and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition<sup>4</sup>].

## Legislative Changes—Imperial.

- [4] The words "and, where any such disposition . . . the terms of any such disposition" at the end of sub-clause (c), were added by Act XV of 1904.

## NOTES.

## Old Acts :—

*Act I of 1879,—S. 3 (19).*

*Act XVIII of 1869 :—S. 3 (32) :—'Settlement' means any instrument (other than a will, whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled.*

## 1.—"Settlement."

## (1) Settlement, meaning of.

The word "Settlement" suggests the creation of a separate interest in favour of several persons having a legal or moral claim on the settlor, or for whom he desires to make a provision. 7 M. 349 (F.B.) (D., 21 M. 422). B

## (2) Creation of life-interest.

An instrument whereby a life-interest in land is created with remainder to the settlor and his heirs is a settlement. 21 M. 422. C

## 2.—"Providing for some person dependent, etc."

## (1) Gift of land.

Gift of land, out of affection, to a sister and her son is not a settlement but gift and liable to stamp duty as such. 7 M. 349 (F.B.). D

## (2) Family arrangement.

A deed of—by which one brother conveyed a *pargana* and a sum of money to a younger brother on condition of the latter's releasing certain family properties, on which he had claim, *held* to be neither a conveyance nor an instrument of partition. 7 C 21; see, also, 37 A. 159 (F B)=13 A L.J. 96=27 Ind. Cas. 731; 37 A. 264=28 Ind. Cas. 348=13 A.L.J. 335. E

## 3 —"For any religious or charitable purpose."

## (1) Settlement for charitable purpose.

An instrument, named a trust-deed by the executant, but intended to have immediate operation and vesting the property in the trustees at once and the provisions as to management and the ultimate beneficial enjoyment in the property showing that it was contemplated to have operation even beyond the life of the owner, *held* to be a settlement and liable to stamp duty accordingly. 20 B. 210 (F.B.) [F., 20 M.L.J. 519=8 M.L.T. 139=7 Ind. Cas 357=33 M. 304.] F

## (2) Executors devoting money to charity—Subscriptions gathered by an appeal to public—Declaration of trust as regards.

An instrument declaring trusts of certain funds placed in the hands of trustees for a charitable purpose was engrossed on a stamp paper of Rs. 15. The funds amounting in all to about three lakhs of rupees were derived from two sources. A lakh of rupees was the result of appeals for the charity, and was brought in various amounts by different contributors, who in some instances coupled the amounts with letters expressing their wishes with regard to the money. The remaining two lakhs were provided by the executors of one A H to whom the sum was bequeathed by A H for establishing such a charity as the executors thought fit. A question having arisen whether the stamp was properly valued: *Held*, (1) that, so far as the fund of one lakh

3.—“ *For any religious or charitable purpose* ”—(Concluded).

was concerned, no previous disposition has been made in writing of any portion of it, and the instrument recorded, by way of declaration of trust, the terms of the disposition of the fund, and was, therefore, a settlement and chargeable with duty at eight annas per cent. (2) *Held*, so far as the two lakhs was concerned, the instrument was an appointment chargeable with a duty of Rs. 15 under Art. 7, Sch. I of the Stamp Act, 1899, inasmuch as the provisions of the will amounted to a disposition for a charitable purpose of the sum, and the executors in appropriating the money were exercising the power of appointment conferred upon them by the will. 13 Bom. L.R. 646=35 B. 444=11 Ind. Cas. 982. **G**

4.—“ *Disposition has not.....disposition.* ”

Terms of disposition not made in writing.

A deed of settlement is still a deed of settlement, though it records— 7 Bom. L.R. 98. **H**

## CHAPTER II.

## STAMP-DUTIES.

A.—Of the Liability <sup>1</sup> of Instruments to Duty.

- 3.** Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

Instruments  
chargeable with  
duty.

- (a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July, 1899;
- (b) <sup>2</sup> every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day <sup>3</sup> and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated, in British India; and
- (c) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of British India, on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India and is received in British India <sup>4</sup>:

Provided that no duty shall be chargeable in respect of—

- (1) any instrument executed by, or on behalf of <sup>5</sup>, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument ;
- (2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894, or under Act XIX of 1838, or the Indian Registration of Ships Act, 1841, as amended by subsequent Acts.

### Legislative Changes—Provincial.

**[For Bengal only].**—*After cl. (c) the following shall be inserted, namely :—*“ Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Bengal on or after the first day of April, 1922 ; and
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed out of Bengal on or after the first day of April, 1922, and relates to any property situated, or to any matter or thing done or to be done in Bengal, and is received in Bengal.”—*Beng. Act III of 1922.*

**[For Madras only].**—*After cl. (c) the following shall be inserted, namely :—*“ Provided that except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A, shall, subject to the exceptions contained in that schedule, be the duty chargeable on the following instruments :—

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in the Presidency of Madras on or after the first day of April, 1922 ;

- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed out of the Presidency of Madras on or after the first day of April, 1922, and relates to any property situated or to any matter or thing done or to be done in the said Presidency and is received in the said Presidency."—*Mad. Act VI of 1922.*

**[For the Punjab only].**—*After cl. (c), the following proviso shall be inserted, namely :—*Provided that notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, and subject to the exemptions contained in Schedule I-A, the following instruments shall be chargeable with duty of the amount indicated in Schedule I-A, as the proper duty therefor, respectively, that is to say—

- (aa) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person is executed in the Punjab on or after the date of commencement of this Act ;
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule which, not having been previously executed by any person, is executed out of the Punjab on or after the date of the commencement of this Act and relates to any property situated, or to any matter or thing done or to be done in the Punjab, and is received in the Punjab."—*Punjab Act VIII of 1922.*

**[For Assam only].**—*After cl. (c) the following shall be inserted, namely :—*" Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

- (aa) every instrument, mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Assam on or after the first day of May, 1922 ; and
- (bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of Assam on or after the first day of May, 1922, and relates to any property situated, or to any matter or thing done or to be done in Assam, and is received in Assam."—*Assam Act III of 1922.*

**[For the United Provinces only].**—*After cl. (c) the following shall be inserted, namely :—*" Provided that, except as otherwise expressly provided in this Act, and notwithstanding



anything contained in clause (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule I-A to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

(aa) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which not having been previously executed by any person, is executed in the United Provinces on or after the first day of May, 1923; and

(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule which, not having been previously executed by any person, is executed out of the United Provinces on or after the first day of May, 1923, and relates to any property situated, or to any matter or thing done or to be done in the United Provinces, and is received in the United Provinces."—*U. P. Act V of 1923.*

### NOTES.

#### Old Acts :—

*Act I of 1879* :—S. 5; Proviso I was Art. 18 of schedule II of Act I of 1879.  
*Act XVIII of 1869* :—S. 4.

#### 1.—“Liability.”

##### (1) Liability to stamp duty—Test.

See 5 C. 684.

I

##### (2) Not liable to stamp duty.

(a) Petition of compromise, 12 C.W.N. 59.

J

(b) *Solenama* referring to the subject of the claim, 19 Ind. Cas. 551.

K

(c) Petition to Court, 8 M. 15; 9 M. 146.

L

(d) *Dzul fehrist*, 3 C. 322=1 C.L.R. 328.

M

(e) Document asking for substitution or addition of the names of an arbitrator, 28 C.W.N. 871; 29 Ind. Cas. 602.

N

#### 2.—“Clause (b).”

##### (1) Pro-note executed out of British India.

(1) There is no provision of law which requires a pro-note executed out of British India to be stamped before it is sued on or used in Court, where the holder thereof has not done any acts referred to in Ss. 3 and 19. Such a document, therefore, will not be inadmissible in evidence in British Indian Courts on the ground of its being unstamped when tendered in evidence. 22 M. 337=9 M.L.J. 135.

O

(2) It is enough if such a document be properly stamped under this Act before the decree is passed. 8 M.L.J. 182.

P

##### (2) *Ibid.*—Necessity before suit to affix British stamp on such document.

Where a suit is based on a promissory note not executed out of British India, to wit, in Mecca, it is sufficient if a British Indian Stamp is affixed to it at the time of decree. 36 M.L.J. 183=25 M.L.T. 191=52 Ind. Cas. 477.

Q

##### (3) Unstamped pro-note, not required to be stamped in Rampore admissible in evidence in British India.

See 10 Ind. Cas. 247=8 A.L.J. 566.

R

3.—“*Executed out of British India on or after that day.*”**Document executed in Australia in 1862.**

A deed comprising an assignment of the executant's interest under a will and also a power-of-attorney, executed in Australia on 26th May, 1862, was held to be admissible in India without stamp or penalty, since the document did not require any stamp under the Stamp Act XXXVI of 1860 or X of 1862, 14 M. 255 (F.B.), S

4.—“*Relates to any property.....in British India.*”**(1) Document executed partly in England and partly in India.**

A document first executed in England by some of the members of a Firm and the senior partner, and stamped under the Stamp Act of England, and subsequently executed in British India by other partners, held to require stamp under the Indian Stamp Act and not to be admissible in evidence unless such stamp duty and penalty were paid. 1 M. 134=11 Mad. Jur. 378. See, also, B.P.J. 1883, 364; 69 P.R. 1894. T

**(2) Power of-attorney executed in England.**

If a—and intended to operate in British India be properly stamped according to the law in force in British India, the Courts in India need not enquire whether the same has been properly stamped according to the law of England. It is enough if it is stamped properly according to the law of India. If it is a document intended to operate in England as well as in India and if it is properly stamped so far as the law of India is concerned, it would be valid in India notwithstanding the fact that it is not valid according to the law in England. 23 C. 187. U

**(3) Assignment of chose in action out of British India.**

A letter by which a chose in action is equitably assigned does not require to be stamped if the chose in action is not, at the time of the assignment, in British India. 8 B.H.C.O.C. 169. Y

**(4) Meaning of the words ‘situate in British India’.**

The words “situate in British India” mean situate in British India at the time of the execution of the document, 2 C. 58 (87)=1 Ind. Jur. 337. W

**(5) Admissibility of foreign unstamped deeds.**

(a) An unstamped instrument executed in a foreign territory, which, under the law of such territory, is valid, will be admissible in evidence in the Courts of British India, if it does not affect property in British India. 7 B.H.C.A.C. 140, X

(b) An instrument not executed in British India and not relating to any property situate or to any matter or thing done or to be done in British India is not chargeable with stamp duty. 48 Ind. Cas. 187=11 Bur. L.T. 126. Y

5.—“*By or on behalf of.*”**Usufructuary mortgage executed by a Collector.**

Under S. 17, Bundlekand Alienations Act (II of 1903) exempted. 38 A. 351 (F.B.) =14 A.L.J. 422. Z

4. (1) Where, in the case of any sale, mortgage or settlement, several instruments<sup>1</sup> are employed for completing the transaction, the principal instrument only shall be chargeable with the duty described in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable<sup>2</sup>

Several instruments used in single transaction of sale, mortgage or settlement.

with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument :

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

### Legislative Changes—Provincial.

**[For Bengal only].**—In sub-section (1) of section 4 of the said Act—

(a) after the words and figure "in Schedule I" the following shall be inserted, namely :—

*" or in Schedule I-A, as the case may be ;"*

(b) for the words and brackets "instead of the duty (if any) prescribed for it in that schedule" the following shall be substituted, namely :—

*" if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A as the case may be."*—Beng. Act III of 1922.

**[For Madras only].**—In sub-section (1) of section 4 of the principal Act—

(a) after the words and figure "in Schedule I" the words, figure and letter "*or in Schedule I-A as the case may be*" shall be inserted ;

(b) after the words "one rupee" the words "*or one rupee eight annas*" shall be inserted ;

(c) for the words "in that Schedule" the words, figures and letter "*in Schedule I or in Schedule I-A as the case may be*" shall be substituted.—Mad. Act VI of 1922.

**[For the Punjab only].**—In sub-section (1) of section 4—

(a) for the figure "I" after the words "in Schedule" shall be substituted the figure and letter "*I-A*".

(b) between the word "rupee" and the word "instead" shall be inserted the words "*and eight annas*".—Punj. Act VIII of 1922.

[For Assam only].—In sub-section (1) of section 4 of the said Act,—

(a) after the words and figure “in Schedule I”, the following shall be inserted, namely:—

“or in Schedule I-A as the case may be”.

(b) for the words and brackets, “instead of the duty (if any) prescribed for it in that schedule”, the following shall be substituted, namely:

“if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be.”—Assam Act III of 1922.

[For the United Provinces only].—In sub-section (1) of section 4 of the said Act,—

(a) after the words and figure “in Schedule I” the following shall be inserted, namely,—

“or in Schedule I-A, as the case may be”;

(b) for the words and brackets “instead of the duty (if any) prescribed for it in that schedule” the following shall be substituted, namely,—

“if the principal instrument be chargeable with the duty prescribed in Schedule I or with a duty of one rupee eight annas, if the principal instrument be chargeable with the duty prescribed in Schedule I-A, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule I-A, as the case may be.”—U. P. Act V of 1923.

## NOTES.

Old Act:—

Act I of 1879 :—S. 6—Same as the above except the Proviso.

Act XVIII of 1869.—S. 13.

### I.—“Several instruments.”

#### (1) Sale-deed comprising two transactions.

A deed of sale or conveyance by one party to another contained an endorsement thereon by the undivided nephew of the vendor giving his consent to the sale of the property. *Held*, the sale and the endorsement were several instruments intended by the parties to complete the transaction of sale and that the endorsement ought, therefore, to have been stamped with a stamp of one rupee. 13 B. 281. A

#### (2) Deed of partition—Full duty paid—Subsequent deed affirming the first deed but making some minor alterations and re-adjustments—Duty payable.

Two brothers executed an instrument setting forth a family arrangement regarding their joint property, and full duty payable on an instrument of partition was paid on that document. Shortly after, the two brothers executed

1.—“ *Several instruments* ”—(Concluded).

another instrument, which provided *inter alia* that the original deed of partition should remain in force after certain alterations made in the subsequent deed and the two deeds were to be equally binding. *Held* that the two deeds were to form and be regarded as one deed and *ad valorem* duty was not chargeable on the second deed which was chargeable with a duty of rupee one only. The Stamp Act is a fiscal enactment and its provisions should be construed in favour of the subject. 13 A. L. J. 96=37 A. 159=27 Ind. Cas. 731 (F.B.). B

## (3) Gift in favour of brother—Another deed by donee in favour of donor.

One T executed a deed of gift of his entire property in favour of his brother S, S executed another deed by which he promised to pay all the money which he required for his expenses. There was a clause limiting the right of T to spend more than a given amount. Certain property was charged with the amount payable to T. The first deed was written on a stamp paper of the value of Rs. 1,125, while the other on a paper of the value of Rs. 10. *Held* that the two documents were part of same transaction and amounted to a settlement within the meaning of S. 4 of the Stamp Act, and the stamp duty paid was sufficient. 13 A.L.J. 335=37 A. 264=28 Ind. Cas. 348 (F.B.). C

## (4) Reference in a deed to a prior deed.

The reference in one document to a prior document merely for the purpose of showing what the consideration for the later document is, will not constitute the deed, in which the prior document is referred to, several instruments necessitating the stamping of the subsequent deed as for two instruments. The documents are to be read together as parts of the same contract. 7 B. 34 (38). D

## (5) Schedule appended to a sale-deed.

A—is not a separate instrument requiring a separate stamp. 6 M.H.C.R. App. XXXVI. E

## (6) Sale of land—Mortgage of the land sold executed by the purchaser, duty chargeable on.

In answer to a reference to the Full Bench under S. 57 (1) of the Act, it was *held*, that a document whereby a purchaser transferred to his vendor, by way of mortgage, an interest in the land sold is not an instrument employed for completing the sale of the property and the deed is, therefore, chargeable with the full amount of duty appropriate to the description of the mortgage under which it comes, specified in Art. 40 of Sch. I of the Act. 3 L.B.R. 205 (F.B.). F

2.—“ *Chargeable.* ”

## Deed acknowledging adoption and endorsement thereon.

A deed containing a recital of an adoption, constituted the adoptee the sole owner of the property of the adopter. This document contained an endorsement by the natural parents of the adoptee signifying their consent to the adoption. *Held*, the deed itself was exempt from stamp duty, because it merely recited the adoption, not being the deed of adoption or authority to adopt and, consequently, the endorsement was not chargeable with any duty. 13 B. 281, G

**5.** Any instrument comprising or relating to several distinct matters <sup>1</sup> shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments relating to several distinct matters.

## NOTES.

## Old Acts :—

*Act I of 1879*—S. 7 (1).*Act XVIII of 1869* :—S. 14.

## (General).

## (1) Scope.

S. 7, para (1) of the Stamp Act, 1879, relates only to transactions so distinct in their nature as to be capable of being carried out by two or more instruments instead of one. S C. 254=10 C.L.R. 33 [*F.*, 17 A. 55 (F.B.)]. **H**

## (2) Test under the section.

(a) The — is whether the instrument in question comprises or relates to different and distinct matters. If it does, each matter will be separately chargeable with duty, notwithstanding the fact that all are clubbed together and the instrument is signed by one or several persons at the same time and place. If it does not, the fact that two or more persons signed it at different times and places would not make it chargeable with additional duty. 102 P.R. 1895. **I**

(b) The test under the Act is not whether the instrument embodies distinct contracts but whether it comprises distinct matters. 15 P. R. 1910=16 P. W. R. 1910=4 P. L. R. 1910=5 Ind. Cas. 812 (102 P. R. 1895, *F.*). **J**

## 1.—“Any instrument.....distinct matters.”

## (1) Distinct matters, what are.

(a) Where a document was in these terms :—“We the undersigned do agree with A to take and hire all that house, etc., at the yearly rent of £35. We also further agree that we will take all the stock in trade of grocery, etc., and such part of the furniture, etc., as we shall think necessary at a fair valuation”, held that the demise and the agreement for the purchase of goods were distinct matters each chargeable with duty. *Clayton v. Burten-Shaw*, 5 B. and C. 41. **K**

(b) At an auction sale of lease-hold and copy-hold premises two separate lots were knocked down to the purchaser who signed the following memorandum :—

“I hereby acknowledge that I have this day purchased by public auction lots 1 and 2 of the estates mentioned in the annexed particulars at £245 (£150 for lot 1 and £95 for lot 2) ; upon the refusal of the purchaser to complete the purchase, the premises were resold, and an action was brought to recover the difference of the price. Held that the memorandum required two stamps. *Watling v. Horwood*, 12 Jur. 48 Q. B. **K-1**

(c) When several releases of separate causes of action are made to different parties by one deed (*Rees v. Rees*, 2 Ld. Raym. 1445) or several annuities are granted by one deed, it has been held that separate stamps are necessary. Addison. **L**

(d) If any deed or instrument, operating as a conveyance on the sale of any property, shall operate also as a conveyance of any other than the property sold by way of settlement, or for any other purpose, or shall also contain any other matter or thing, besides what shall be incident to the sale and conveyance of the property sold, or relate to the title thereto, every such deed or instrument is chargeable in addition to the duty to which it is liable as a conveyance on the sale of property, with such further stamp duty as any separate deed containing the other matter would have been chargeable with. Addison. **M**

(e) Whenever a mortgage or other instrument chargeable with the *ad valorem* mortgage duty is contained in one and the same sheet of writing, with any other matter or thing not incident to such mortgage or other instrument, such deed or writing is chargeable with the same duties as such mortgage and such other matter or thing would have been separately charged with, if contained in separate deeds or writings ; and where the same (contract) respectively shall be made, as a security for the payment of money, and also

1.—“ Any instrument.....distinct matters ”—(Continued).

for the transfer or re-transfer of a share in any stocks or funds, the said *ad valorem* duty is charged in respect of each; and in case the same respectively shall be made, as a security for the payment or transfer, to different persons, of separate and distinct sums of money, or shares in any...stocks or funds, the duty is charged for, and in respect of, each separate and distinct sum of money or share in any of the stocks or funds therein specified and secured, and not upon the aggregate amount thereof. Addison. N

- (f) Where numerous persons having surface and mining rights over lands in a district, executed an indenture in favour of a company granting a license to the latter to prospect and work upon lands belonging to them individually and agreeing to sell or lease the mining rights thereon, if so required, *held*, the instrument was chargeable with the aggregate amount of the duties with which separate instruments relating to the same matter would be chargeable. 24 M. 176=10 M.L.J. 378 (F.B.). O
- (g) A deed contained two parts, one containing a promise to repay, with interest, a certain sum borrowed and the second a promise also to give a quantity of grain; and, in a suit on the deed, the promisee abandoned his claim as concerned the grain and confined his claim only to the other portion, as regards which the deed had been properly stamped. *Held*, he could so abandon his claim and recover, on the deed, the principal and interest without paying any stamp duty or penalty as regards the portion abandoned. 4 B. 19. See, also, 12 W.R. 11 at p. 12 (F.B.)=4 B.L.R.F.B. 18. P
- (h) Where sixteen different persons borrowed a quantity of rice from a certain person and passed a single bond to the creditor showing how much was borrowed by each and the bond did not contain a joint engagement to pay the entire debt, *held*, the instrument ought to be regarded as containing sixteen contracts liable to stamp duty as such. 10 B. 47. [D., 16 P.W.R. 1911=15 P.R. 1910]. Q
- (i) A power of attorney by several persons authorising the executors thereof to do for them similar acts, in none of which they have a common interest, ought to be stamped as so many separate powers-of-attorney as there are executants. 2 M.L.J. 175 (F.B.). R
- (j) Power-of-attorney by several mirasidars of a village—*vide* 15 M. 386 (F.B.), under S. 2 (21), *supra*. S
- (k) Where, under the same instrument, a mortgagor relinquishes his title to the mortgaged property in favour of the mortgagee and also agrees to pay the Government assessment on the land until the transfer of the land to the name of the mortgagee in the Collector's books, the instrument will be liable to two stamp duties, one as a conveyance and the other as an agreement. 15 B. 675. T
- (l) Vakalatnamah by several persons jointly interested. See 9 M. 356 (F.B.), under S. 2 (21), *supra*. U
- (m) Where several persons entered into an agreement, under which the future surplus profits of their respective trades were to be transferred to a trustee to be held by him on certain trusts declared in the agreement, *held*, the deed was chargeable with duty as a declaration of trust (Art. 64-A *post*) and also as an agreement (Art. 5 b, *post*). 11 M. 216 (F.B.). See *hereon* 35 B. 444=213 Bom. L.R. 646=11 Ind. Cas. 982. V
- (n) Acknowledgment by the principal cannot have the same legal effect as release by him to his rights to call for account. 31 M.L.J. 851=(1917) M.W.N. 121=5 L.W. 279=37 Ind. Cas. 974. W

(2) Not separate and distinct matter.

- (a) The fact that a conveyance recites, for a single consideration, the usual covenants of title will not render it chargeable with duty also an indemnity bond, such covenants being the ordinary incidents of a conveyance. 1 M. 133=1 Ind. Jur. 128 (F.B.). See, also, 15 M. 150. X
- (b) A lease for a fixed period of years, providing for renewal of the same for a further period at the option of the lessee, after the expiration of the original term, *held* not to be an instrument relating to several distinct matters. 25 M. 8. Y

## 1.—“Any instrument.....distinct matters”—(Continued).

- (c) Where a mortgage-deed contained stipulations, on the part of the mortgagor, to indemnify the estate against expenses incurred by the mortgagees in protecting the title of the mortgagor, as against the claims of the latter's co-sharer, it is not, on that account, liable to any additional stamp duty, the reason being that such engagements are the necessary incidents of a mortgage-deed. 9 B. 435. Z
- (d) Where a document, termed a sale-deed, contained an additional clause, whereby the vendor hypothecated certain other specific properties as security for the due performance of his covenants. *Held*, that the sale-deed was not an instrument comprising or relating to distinct matters within the meaning of S. 5 and consequently need not be stamped both as a sale-deed and as a mortgage. (1920) M.W.N. 247=43 M. 365=38 M.L.J. 506=56 Ind. Cas. 154 (F.B.) (41 M. 469, *overruled*). A
- (e) An instrument, otherwise properly stamped, does not become two instruments for purposes of stamp for the simple reason that it is executed by two persons jointly and dealt with as a single matter. 4 A.W.N. 318. See 17 A. 55=14 A.W.N. 204. B
- (f) B, to whom A had agreed for a certain price to transfer the mining rights in a certain property for a period of 999 years, subject to the payment of certain rents and royalties, agreed to transfer those rights to C, subject to the same conditions as to rents and royalties, but for an increased price. To carry this last agreement into effect, a lease was executed, but concurrence of A amongst others was obtained to it: *Held*, that the instrument was a single lease and liable to stamp duty as such. It was not a multifarious document within the meaning of S. 5 of the Stamp Act embodying two leases. The concurrence, which it was thought proper to obtain of several persons other than the lessor, did not alter the character of the lease or the nature of the transaction. 14 C.W.N. 861=6 Ind. Cas. 762=37 C. 629. C
- (g) The contract in this case was comprised in bought and sold notes, each signed by the brokers and stamped under Art. 43 of the Stamp Act, with a stamp of 2 annas. This contract contained a number of conditions, one of which constituted the submission to arbitration. *Held* that the agreement to refer any dispute whatever arising out of the contract to arbitration is a part of the contract itself, and not a distinct matter within the meaning of S. 5 of the Stamp Act, and that the documents together making the contract were not chargeable with duty otherwise than as broker's notes under Art. 43 of that Act. 39 C. 669=16 Ind. Cas. 155; 40 S.L.R. 14; 35 Ind. Cas. 449; 13 C.W.N. 63; 1 Ind. Cas. 371. See, also, 10 C. 219. D
- (h) Some villagers entered into an agreement to supply fish in consideration of an advance paid. The questions for determination were:—(1) whether the agreement was one relating to sale of goods exclusively; and (2) whether there was unity of consideration; and (3) whether the document could be admitted in evidence. *Held*, (1) that the agreement was not one relating to the sale of goods exclusively, so as to bring it within sch. I, art. 5, Ex. (a) of Act II of 1899; nor (2) was it one comprising or relating to distinct matters within the meaning of S. 5; and (3) that the Court has jurisdiction to admit the document on payment of duty and penalty as provided in S. 35. 5 M.L.T. 135 (F.B.)=19 M.L.J. 25=2 Ind. Cas. 481. E
- (i) An agreement with a penal clause, by which the obligor undertakes, in the event of his failing to fulfil the conditions of the agreement, to pay certain amount as penalty of the obligee, is chargeable, under S. 7 of the Stamp Act, with the stamp duty leviable on a bond for the amount of such penalty. *Per* Stuart, C. J.—For the purposes of the Stamp Act, the penal clause in the agreement cannot be considered separately, as constituting a bond, but simply as one of the several subsidiary clauses making up the whole agreement, and the document is only chargeable as an agreement. 2 A. 654, (F.B.) [*Diss.*, 8 C. 284; *Doubted*, 9 A. 585, (F.B.)] F
- (j) The contract of the principal was written first and signed by him on a stamp paper; then commenced the contract of the surety on the same stamp paper and signed by him. *Held*, the two together constituted but one instrument and were liable to a single stamp duty. 5 B. 188 (F.B.) [R. 13 A. 66]. G



*1.—“ Any instrument.....distinct matters ”—(Concluded).*

- (7) A lease deed, providing that the lessee should pay rent month after month and that the lessor should repay, at the end of the lease term, money paid in advance by the lessee by way of one month's rent, held to be liable to stamp duty as a single transaction, viz., the lease, and not as an instrument dealing with two distinct matters, 26 M. 473. H

**6.** Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions <sup>1</sup> in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

Instruments coming within several descriptions in Schedule I.

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

**Legislative Changes—Provincial.**

**[For Bengal only].**—In section 6 of the said Act,—

- (1) in the first paragraph, after the words and figures “ in Schedule I ” the following shall be inserted, namely :—

“ or in Schedule I-A, as the case may be ” ;

- (2) In the proviso, after the words “ one rupee ” the words “ eight annas ” shall be inserted, and after the words “ has been paid ” the following shall be added, namely :—

“ unless it falls within the provisions of section 6-A.”—*Bengal Act, III of 1922.*

**[For Madras only].**—In section 6 of the principal Act, after the word and figure “ Schedule I ” the words, figure and letter “ or in Schedule I-A as the case may be ” and after the words “ one rupee ” the words “ or one rupee eight annas as the case may be ” shall be inserted.—*Madras Act, VI of 1922.*

**[For the Punjab only].**—In section 6—

- (1) between the word “ descriptions ” and the word “ in ” shall be inserted the word “ given ” and after the word and figure “ Schedule I ” shall be inserted the words, figure and letter “ and Schedule I-A ; ”

- (2) in the proviso, after the words “ one rupee ” the words “ and eight annas ” shall be inserted, and after the words “ has been paid ” the following shall be added, namely :—

“ unless it falls within the provisions of section 6-A.”—*Punjab Act, VIII of 1922.*

[For Assam only].—In section 6 of the said Act,—

- (1) in the first paragraph, after the words and figure "in Schedule I" the following shall be inserted, namely,—

"or in Schedule I-A, as the case may be";

- (2) in the proviso, after the words "one rupee" the words "*eight annas*" shall be inserted, and after the words "has been paid" the following shall be added, namely,—

"unless it falls within the provisions of section 6-A."—Assam Act, III of 1922.

[For the United Provinces only].—In section 6 of the said Act—

- (1) in the first paragraph, after the words and figure "in Schedule I" the following shall be inserted, namely,—

"or in Schedule I-A, as the case may be";

- (2) in the proviso, after the words "one rupee" the words "*eight annas*" shall be inserted, and after the words "has been paid" the following shall be added, namely,—

"unless it falls within the provisions of section 6-A."—U.P. Act, V of 1923.

## NOTES.

### Old Acts :—

Act I of 1879 :—S. 7 (2).

Act XVIII of 1869 :—S. 4 (1).

### I.—"Instrument... descriptions,"

#### (1) Lease and Mortgage.

Where a document is so framed as to constitute a lease, as also a mortgage, on the part of the lessee, so far as the securing of the payment of the rents due and the performance of the engagements under the lease are concerned, it would fall within the purview of this section, as an instrument relating to the same transaction but falling within two or more description in Sch. I and be chargeable with the highest duty. 17 A. 55 (F.B.); 8 C. 254=10 C L R. 33 (F.B.). I

#### (2) Mortgage deed and bond.

Where a document is so framed as to constitute a mortgage-deed as also a bond and the deed relates to a single transaction, it would fall within the purview of this section. 9 A. 585 (*Per* Stuart, C.J. and Straight and Brodhurst, JJ) (2 A. 654, *diss.*) J

#### (3) Shahjog Hundi—Payable after a year—Stamp as on a bond.

A Shahjog Hundi comes under S. 6 and is chargeable with the higher of two duties mentioned in the schedule. If such a hundi be drawn for a period of more than a year, the stamp duty payable is similar to that on a bond. 23 C.L. J. 22=33 Ind. Cas. 247. K

#### (4) Bought and sold note containing a term providing for reference of disputes to arbitration.

A—does not come within the section. 39 C. 669. But see *contra* 40 C. 219=17 C.W.N. 395=18 Ind. Cas. 978. L

## Section 6-A.

[Newly added by various Local Legislatures.]

[For Bengal only].—

Payment of Bengal Stamp duty on copies, counterparts or duplicate when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid—

- (a) on the principal or original instrument as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in Bengal, have been chargeable, under the Bengal Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.—*Bengal Act, III of 1922.*

[For the Punjab only].—

Payment of the Punjab Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Indian Stamp (Punjab Amendment) Act, 1922, has been paid—

- (a) on the principal or original instrument as the case may be, or
- (b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in the Punjab have been chargeable under the Indian Stamp (Punjab Amendment) Act, 1922, with a higher rate of duty be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in section 35 or in any other law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

## S. 6-A—Newly added by various Local Legislatures:

Provided that a Court before which any such instrument counterpart, duplicate or copy is produced, shall permit the duty chargeable under this section to be paid thereon, and shall then receive it in evidence.—*Punjab Act, VIII of 1922.*

## [For Assam only].—

Payment of Assam Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Assam Stamp (Amendment) Act, 1922, has been paid—

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in Assam, have been chargeable, under the Assam Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.—*Assam Act, III of 1922.*

## [For the United Provinces only].—

Payment of the United Provinces Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument.

6-A. (1) Notwithstanding anything contained in section 4 or 6 or in any other law, unless it is proved that the duty chargeable under the United Provinces Stamp (Amendment) Act, 1923, has been paid—

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of a sale mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would when received in the United Provinces, have been chargeable under the United Provinces Stamp (Amendment) Act, 1923, with a higher

rate of duty be the duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate, or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.—*U. P. Act, V of 1923.*

**7.** (1) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894), shall be valid unless the same is expressed in a sea-policy <sup>1</sup>.

Policies of sea-insurance.

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

#### NOTES.

**Old Acts :—**

*Act I of 1879 :—S. 7 (a)—Same as above.*

*Act XVIII of 1869 :—No corresponding provision.*

**1.—“ Unless the same is expressed in a sea-policy.”**

**Contract for marine Insurance—Must be in writing—Oral Contract not enforceable—Plea raised in appellate Court entertained.**

Under section 7, a contract for sea insurance must be embodied in a written sea policy, and an oral contract for marine insurance cannot be recognized nor enforced by the Court. Where a contract is required by statute to be in writing, a plea as to its invalidity based upon want of writing can be raised for the first time even before the Privy Council and must be entertained.

**8.** (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of <sup>[1]</sup> [one per centum] on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Governor General in Council.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

### Legislative Changes—Imperial.

[1] The words "one per centum" were substituted for the words "eight annas per centum" by Act VI of 1910, S. 2.

### NOTES.

#### Old Acts :—

*Act I of 1879 :—S. 7 (b).*

*Act XVIII of 1869 :—No corresponding provision.*

Power to reduce,  
remit or compound  
duties.

**9.** The Governor General in Council may, by rule or order published in the Gazette of India,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British

India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

- (b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

### Legislative Changes—Provincial.

[For the Punjab only].—In clause (a) of section 9 between the word "chargeable" and the word "and" shall be inserted the following proviso, namely:—"Provided that with respect to instruments which are chargeable with duty under Schedule I-A, such reduction or remission may, by notification, be granted by the Governor in Council"—Punjab Act, VIII of 1922.

### NOTES.

#### Old Acts :—

Act I of 1879 :—S. 8 (a).

Act XVIII of 1869 :—S. 16.

#### B.—Of stamps and the mode of using them.

**10.** (1) Except as otherwise expressly provided in this Act, all duties with which any instrument are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

Duties how to be paid.

- (a) according to the provisions herein contained; or
- (b) when no such provision is applicable thereto, as the Governor General in Council may by rule direct.
- (2) <sup>1</sup> The rules made under sub-section (1) may among other matters regulate,—
- (a) in the case of each kind of instrument—the description of stamps which may be used;
- (b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;

- (c) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

## NOTES.

## Old Acts:—

Act I of 1879:—S. 9.

Act XVIII of 1869:—Ss. 54, 49 and 50.

## 1.—“Sub-section 2.”

## (1) Scope.

See 5 B. 188 (F.B.).

N

## (2) Pro-note written on two impressed sheets.

A pro-note, which under a rule issued by the Governor-General in Council under S. 9 of Act I of 1879 (S. 10, para 1 of this Act) ought to have been written on one impressed sheet but which was written on two stamps shown together, held not duly stamped and hence inadmissible in evidence. 73 P.R. 1886.

O

## (3) Deed written on two stamp papers, admissibility of.

A deed of sale requiring a stamp of Rs. 20 but written on two Ten Rupee stamped papers, held admissible in evidence without payment of a penalty. 64 P.R. 1874 [Overruled, 26 P.R. 1876.]

P

## (4) Several sheets of stamped paper.

—could be joined together, but a portion of the instrument should be written on each of such sheets. 51 Ind. Cas. 88=23 C.W.N. 524=29 C.L.J. 305; see 4 L.B.R. 320.

Q

## (5) Bond written partly on one and partly on another stamp paper—Admissibility in evidence.

A bond written partly on one and partly on another stamp paper, the two aggregating the proper stamp leviable—was tendered in evidence without the certificate required by S. 49 of the General Stamp Act. Held, that there was a deficiency of stamp on the bond and therefore a liability to the penalty, and that the deficiency must be held to be equivalent to the difference between the value of the stamp on one of the papers and the whole value chargeable. 7 M.H.C. App. 36.

R

## (6) Pro-note payable otherwise than on demand.

A—for a sum not exceeding Rs. 200 but not more than one year after date and requiring a stamp of two annas, may be written on an impressed sheet of the value of two annas, though such impressed sheet bears the word “hundi” thereon. The effect of Government Notification No. 2955/1-12-1882 is not to prohibit pro-notes, other than those chargeable with a duty of 6, 10 or 12 annas, being written on impressed sheets bearing the word “hundi” thereon. 13 A. 66=10 A.W.N. 238. [F., 21 P.R. 1891.]

S-T

## (7) Promissory note on impressed hundi paper.

A promissory note for Rs. 4,300, written on an impressed hundi paper for Rs. 3, was correctly stamped and did not contravene rules framed under the Stamp Act. The rules under S. 9 of the Stamp Act (I of 1879), require that a document, such as the above, must be written on an impressed sheet. They render it compulsory that promissory notes chargeable with a duty of 6, 10 or 12 annas must be written on a hundi paper; but that does not imply any prohibition against other promissory notes also being so written, as the hundi papers are also impressed sheets. 14 M. 32. [F., 21 P. R. 1891.]

U



Use of adhesive  
stamps,

**11.** The following instruments may be stamped <sup>1</sup> with adhesive stamps, namely :—

- (a) instruments chargeable with the duty of one anna <sup>2</sup> [1] [or half an anna], except part of bills of exchange payable otherwise than on demand and drawn in sets ;
- (b) <sup>3</sup> bills of exchange, cheques and promissory notes drawn or made out of British India ;
- (c) entry as an advocate, vakil or attorney on the roll of a High Court ;
- (d) notarial acts ; and
- (e) transfers by endorsement of shares *in any incorporated company or other body corporate.*

### Legislative Changes—Imperial.

[1] The words " or half an anna " were inserted by Act V of 1906.

### Legislative Changes—Provincial.

**[For Bombay only].**—In clause (a) of section 11, before the words " one anna, " the word " *two annas* " shall be inserted—*Bom. Act, II of 1922.*

### NOTES.

#### Old Acts :—

*Act I of 1879* :—S. 10—Same as above except the italicised portion.

*Act XVIII of 1869* :—S. 5 (a).

#### 1.—" *May be stamped,* "

##### (1) Effect of stamping with impressed stamps.

Though a pro-note payable on demand may be stamped with an adhesive stamp, under this section, it does not necessarily follow that, if it is stamped as a *hundi* (i.e.) written on an impressed stamp provided for a *hundi*, it is stamped improperly so as to render it inadmissible in evidence. 5 A.W.N. 317. Y

##### (2) Cancellation of stamp on *hundi* at delivery.

The execution of a *hundi* is not complete until delivery thereof. If, therefore, it is stamped at the time of delivery and the cancellation of stamp also takes place at that time it would be sufficient. 19 B. 635. W

#### 2.—" *Chargeable with the duty of one anna,* "

##### (1) Bill of Exchange for Rs. 500 payable otherwise than on demand.

A—must be stamped with an impressed stamp of six annas ; otherwise it is not duly stamped. 8 C. 721. X

##### (2) *Hundi* for Rs. 380 payable otherwise than on demand.

A—cannot be stamped with an adhesive stamp. 2 M. 173. Y

3.—“ *Sub section (b)* ”.**Application of words.**

The words “ drawn or made out of British India ” in cl. (b) of S. 10 of the Stamp Act of 1879, apply to the entire clause. 2 M. 173. Z

**12.** (1) <sup>1</sup> (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again ; and

Cancellation of adhesive stamps.

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution <sup>2</sup>, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again <sup>3</sup>.

(2) Any instrument <sup>4</sup> bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual <sup>5</sup> manner.

**NOTES.****Old Acts :—**

*Act I of 1879* :—S. 11.

*Act XVIII of 1869* :—Ss. 31 and 33.

**1.—“ *First paragraph*.”****(1) Applicability of first paragraph.**

The first paragraph of this section applies to cases in which the instrument chargeable with duty may be stamped after execution. A receipt to a salary bill of a Government Official is an instrument which ought to be stamped before or at the time of its execution. If, therefore, it is not stamped and the stamp not cancelled before execution, the executant will be guilty of an offence under S. 62 of this Act (para 1, S. 61 of Act I of 1879). 9 A. 210 = A.W.N. (1887) 5. A

**(2) Adhesive stamp—Stamp not cancelled—Document deemed to be unstamped.**

Where a hand note was executed bearing an adhesive stamp of one anna and the stamp had not been cancelled as required by law the document must be treated as an unstamped document and is inadmissible in evidence. 60 Ind. Cas. 652 ; see hereon 10 P.R. 1912, B

**(3) Instrument bearing stamp not cancelled.**

No decree can be passed on an — 2 L.B.R. 103. C

## 2.—“At the time of execution.”

## (1) Cancellation of stamp on hundi at delivery.

See 19 B. 635 under S. 11, *supra*.

D

## (2) Non-cancellation of stamp.

If a stamp on a pro-note be not cancelled at the time of execution, it will be treated as an unstamped document and will not be received in evidence; but evidence *aliunde* may be received for the purpose of proving the original consideration, if any. A.W.N. (1906) 9=3 A.L.J. 25=28 A. 298 (7 C. 256, F.); see 14 B. 102.

E

(3) *Hundi*—Stamp not cancelled.

A *hundi*, the stamp on which was not cancelled at the time of its execution, is not admissible in evidence. 169 P.L.R. 1912=272 P.W.R. 1912=16 Ind. Cas. 834.

F

## 3.—“Cancel the same.....again.”

## (1) Effect of non-cancellation.

A note or memorandum of goods sold falling within art. 43 of the Act (46 of Act I of 1879) being chargeable with a duty of one anna, the stamp thereon ought to have been cancelled at the time of execution. If not, it will be treated as an unstamped document and will be inadmissible in evidence. Nor can evidence other than the note itself be received relating to the transaction. 14 B. 102.

G

## (2) Promissory note bearing uncanceled stamp.

A promissory note bearing a stamp not cancelled as required by law is inadmissible in evidence under S. 35 of the Indian Stamp Act. A Court which gives a decree on such a document acts contrary to law. (14 B. 102, 18 B. 369, F.) 2 L.B.R. 103. [*Diss.*, U.B.R. 1909, Stamp, 3.]

H

## 4.—“Any instrument.”

*Hundi*—Stamps not properly cancelled—Inadmissibility in evidence.

Where the stamps on a *hundi* were not properly cancelled as required by S. 12 of the Stamp Act: *Held*, that the *hundi* is not admissible in evidence. 18 P. R. 1912=65 P.W.R. 1912=15 P.L.R. 1912=14 Ind. Cas. 512. (28 B. 432; 66 P.R. 1906; 26 A. 178; 28 A. 298, R.)

I

## 5.—“Person required.....effectual.”

## (1) What does not amount to cancellation.

(a) The mere drawing of two parallel lines across a receipt stamp affixed to an instrument is not such a cancellation as to make the stamp one that could not be used again. 28 B. 432=6 Bom. L.R. 436.

J

(b) Drawing a line with a blue pencil no cancellation. 23 M.L.J. 273=12 M.L.T. 122=16 Ind. Cas. 96.

K

## (2) Drawing two lines across the face of an adhesive stamp—Effect—Appellate Court's power to question admissibility of document admitted by Court of first instance.

It seems that the drawing of two lines across the face of an adhesive stamp on a document amounts to such cancellation as is required by S. 12 (3) of the Indian Stamp Act. (28 B. 432, 6 Bom. L.R. 436, *doubted*). Where a document, on which a suit is brought, is filed with the plaint, and is admitted in evidence in the first Court without demur or objection, *held*, that objection to its inadmissibility cannot, under the circumstances of the case, be raised in the appellate Court. (189 P.R. 1890; 2 P.R. 1891; 24 B. 360, R.) No order with regard to the stamp having been made in this case by the Court of first instance, S. 61 of the Act is inapplicable. 108 P.R. 1908=207 P.W.R. 1908. See 14 B. 102.

L

5.—“*Person required.....effectual*”—(Concluded).

## (3) Adhesive stamp, lines drawn on, effect of.

Where the stamp on a pro-note or a receipt was cancelled by having lines drawn across it in different directions, each line extending more or less beyond the edges of the stamp on to the paper on which the document was written, *held*, that the adhesive stamps on the document in question had been cancelled in a sufficiently effectual manner. The question whether the requirements of law about the cancellation of stamp had or had not been sufficiently complied with was to be determined upon the examination of the document concerned in each particular case. (108 P.R. 1908, *Appr.*) 15 O.C. 58=15 Ind. Cas. 202. M

## (4) Adhesive stamp—Mode of cancellation.

Drawing of lines across an adhesive stamp with the intention of cancelling it is an effective cancellation. This section does not make it obligatory that a stamp should be so cancelled as to make its use again a physical impossibility. Where an ordinary conscientious man would on seeing it would come to the conclusion that it had been once used, it is sufficient. 66 Ind. Cas. 5=16 S.L.R. 34; 41 A. 69=17 A.L.J. 19=52 Ind. Cas. 974=1 U.P.L.R. 29. N

## (5) Intention to cancel must be clear.

See 9 L.L.J. 170=60 Ind. Cas. 599. O

## (6) Cancellation of stamp if properly effected by drawing diagonal lines across it.

The question of the effective cancellation of a stamp is purely a question of fact to be decided by examination of the stamp itself, and a cancellation of the stamp by drawing diagonal lines across it, their ends extending on to the paper, is an effectual one within the meaning of this section. 148 P.R. 1919=54 Ind. Cas. 976. P

**13.** Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument<sup>1</sup> and cannot be used for or applied to any other instrument.

Instruments stamped with impressed stamps how to be written.

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 19.

*Act XVIII of 1869* :—No corresponding provision.

1.—“*On the face of the instrument.*”

## (1) Document begun on the reverse of an impressed stamp.

A — does not fall within the prohibitory words of the section. It is not necessary that the document should commence on any particular side of a stamp paper, the only thing prohibited by the section being the writing of the document in such a manner as to deface the stamp or to render a second use of the stamp possible, 5 B. 188 (F.B.); 7 M. 176 (F.B.). Q

## (2) Instrument wholly written on one impressed sheet—Another sheet added to make up deficiency in value—Not duly stamped—Inadmissibility.

Where two impressed sheets have been used to make up the amount of duty chargeable in respect of a promissory note, but the whole of the instrument has been written on only one of the sheets: *Held*, that the instrument was not duly stamped because it offended against the provision of S. 13 and rule 7 of the rules framed under S. 76 and that it was therefore not admissible in evidence. 15 M.L.T. 203=23 Ind. Cas. 110. R

**14.** No second instrument<sup>1</sup> chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written<sup>2</sup> :  
Only one instrument to be on same stamp.

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

#### NOTES.

Old Acts :—

*Act I of 1879* :—S. 13.

*Act XVIII of 1869* :—No provision.

#### 1.—“Second instrument.”

(1) Endorsement of transfer of a bond.

An—properly stamped, requires a stamp and such endorsement may be stamped under S. 35, para. 1. 17 B. 687 (F.B.). See hereon, also, 13 B. 281; 4 A. 462 S

(2) Contract by principal and surety on same paper.

See 5 B. 188 (F.B.), cited under S. 5, *supra*.

T

(3) Bond duly stamped—Effect of rise of price of grain.

A bond for delivery of grain at a certain price prevailing at the date of its execution will be a properly stamped instrument notwithstanding the fact that, at the date of a suit thereon, a larger sum becomes recoverable owing to the rise in the market of price of grain of the same quantity. 13 C. 268. T-1

(4) Reference executed in favour of sole arbitrator—Insertion of the name of another arbitrator before acceptance by the former.

Where the parties, who had executed on a stamp paper a reference to a sole arbitrator, inserted, before the sole arbitrator had accepted the reference, the name of another person as a co-arbitrator and initialled the alteration. Held that the insertion above mentioned did not constitute the agreement a second instrument, 8 S.L.R. 302=29 Ind. Cas. 602. U

(5) Second instrument—Bill of Exchange—Acceptance by drawee—Period of payment extended by drawer and accepted by drawee—Fresh stamp necessary.

Where a bill of exchange is accepted by the drawee, but is not met on the due date, and the time of the bill is extended by the drawer and re-accepted by the drawee, such altered bill is a second instrument and requires to be stamped afresh under S. 14. 27 Bom. L.R. 31.

#### 2.—“Upon which.....written.”

Endorsement of release on a sale-deed.

A sale-deed for 100 rupees written on an impressed stamp of the value of one rupee bore on its back an endorsement of release. Held, that the writing of the endorsement on the back of the stamp was not illegal; that the endorsement required to be stamped as a release and that it could be validated by a certificate under S. 42 (1) on receipt of stamp duty and penalty. 11 M. 40 (F.B.). Y

Instrument written contrary to section 13 or 14 deemed unstamped.

**15.** Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped <sup>1</sup>.

### NOTES

Old Acts :—

*Act I of 1879*:—S. 14.

*Act XVIII of 1869*:—No provision.

*1*.—"Every.....unstamped."

**(1) Conveyance and release—Stamp.**

Where a conveyance for Rs. 100 was written on the face of a one rupee stamped paper and a release on the back of the paper, the first instrument should be considered to have been written, executed, and stamped, according to law. The second instrument can be validated on payment of the deficient stamp duty and the penalty. 11 M. 40 (F.B.). See 5 B. 188 ; 17 B. 687. **W**

**(2) Promissory Note—Material alteration—Fresh stamp if necessary.**

Any material alteration in an instrument with the consent of the parties, vacates the original instrument and makes it a new instrument liable to a fresh stamp duty, unless the alteration was made before issue, or in order to correct a mistake, or to supply an omission and in furtherance of the original intention of the parties. 11 Bur. L.T. 257=50 Ind. Cas. 517. **X**

**(3) Complete lease executed and registered—Second lease substituting new terms for the old—Stamp duty.**

See 20 W.R. 36. But see 37 A. 264. **Y**

**16.** Where the duty with which an instrument is chargeable, or its exemption from duty, Denoting duty. depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the Governor General in Council may by rule prescribe <sup>1</sup>.

### NOTES.

Old Acts :—

*Act I of 1879*:—S. 15.

*Act XVIII of 1869*:—Art. 16, Sch. II.

*1*.—"Collector.....prescribe."

**Rules—Irregularity.**

See 7 N.L.R. 26=10 Ind. Cas. 702. **Z**

*C.—Of the time of stamping instruments.*

**17.** All instruments chargeable with duty and executed by any person in British India shall be stamped<sup>1</sup> before or at the time of execution<sup>2</sup>.

Instruments executed in British India. 1

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 16.

*Act XVIII of 1869* :—No corresponding provision.

*1.—“Stamped.”***Meaning of the term ‘stamped’.**

It means ‘stamped’ not only with a stamp of the amount required by law but also in the manner prescribed by law. 6 Bom. L.R. 699. See hereon 24 M. 259 ; 11 O.C. 152 ; 3 M. 251. A

*2.—“Before or at the time of execution.”***(1) Civil Courts not bound to enquire at what time instrument was stamped.”**

See 24 W.R. 198 ; 9 C.L.R. 272. B

**(2) Stamping of a Hundi.**

See 19 B. 635, noted under S. 2 (11), *supra*. C

**(3) Receipt stamped subsequent to execution.**

A — but before production in Court in evidence is not only not stamped but is not admissible in evidence. 13 B. 454. C-1

**(4) Post stamped bond—Representatives of grantor of bond.**

A bond stamped after the grantor's death is valid against his heir. The personal representatives or other persons claiming as kindred of one deceased grantor occupy, for the purposes of Reg. XVIII of 1927, the same position which the deceased would have occupied had he been alive. It is not correct to say that such representative or kindred of the deceased is a third party within the meaning of the Regulation. According to English law, the executors or administrators of a deceased person are implied in himself, and so far at least as regards the enactment in Reg. XVIII of 1927, the same rule applied to personal representatives of a deceased Hindu or Muhammadan. [F., 5 B.H.C.A.C. 217.] 1 B.H.C. 52. D

**(5) Stamp affixed after signature.**

It would not matter much even if the stamp were affixed and cancelled after signature, if the signing of the instrument and the affixation of the stamp were almost simultaneous for all practical purposes. 24 M. 259. E

**(6) Hundi drawn in British India but payable at Colombo.**

A — does require to be stamped with an Indian stamp before or at the time of execution. Case in which it was held that, though such a document is inadmissible in evidence, if unstamped till long after execution, when once the lower appellate Court received it in evidence, though erroneously, the admissibility thereof in evidence, could not be questioned in second appeal. 5 M. 220. F

**(7) Bill with words ‘received payment.’**

A — printed underneath and containing the signature of the firm issuing the same below such words is a receipt and ought to be stamped at the time of the firm signing it. 1 L.B.R. 281. G

## 2.—“Before or at the time of execution”—(Concluded).

## (8) Acknowledgment of debt—Execution of Rukka.

The defendant executed two *rukhas* for certain sums of money borrowed from the plaintiff on the 30th June and the 12th July, 1893. On the 22nd November, 1895, an account was made of the money due to the plaintiff from the defendant in respect of the two *rukhas* and for the sum found due up to the said date; the defendant executed a *rukka* in which the debts due on the first two *rukhas* were mentioned and acknowledged in the following terms: “*Mubligh 12,937-14 0.....Tarikh 22nd November 1895, aj tak baki nikle wuh wajib-ul ada hai.*” This *rukka* bore a one anna adhesive stamp. Held, that the acknowledgment of the balance found due in the *rukka* was an acknowledgment within the meaning of art. I, sch. I, Act I of 1879, and was stamped at the time of execution, within the meaning of S. 16 of that Act, 8 O.C. 195 [*Rel. on*, 6 O.C. 16; *Expl.*, 7 O.C. 166; *D.*, 11 O.C. 152]. H

Instruments other than bills, cheques and notes executed out of British India <sup>1</sup>

**18.** (1) Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

## NOTES.

Old Acts :—

Act I of 1879 :—S. 17.

Act XVIII of 1869 :—S. 24 (c) corresponds to both the paras of the present section 18.

## 1.—“Instruments...British India.”

## Penalty.

(a) Document in reality a Policy of sea-insurance. See 19 B. 130, cited under S. 2 (20), *supra*. I

(b) No penalty is recoverable under Act I of 1879 if document executed was at a time when the said Act was in force. 8 M. 251; 14 M. 255. J

**19.** The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India <sup>1</sup> shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same :

Bills, cheques and notes drawn out of British India.



Provided that,—

- (a) if, at the time any such bill of exchange, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;
- (b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

#### NOTES.

Old Acts :—

*Act I of 1879* :—S. 18.

*Act XVIII of 1869* :—S. 8.

#### 1.—“Drawn or made out of British India,”

##### (1) Promissory note executed out of British India.

(a) A——and sued on in a British Indian Court may be admitted in evidence, even if unstamped or insufficiently stamped, where the holder thereof has not done in British India any of the acts referred to in this section and S. 6, *supra*. 22 M. 337 = 9 M.L.J. 135. See hereon 32 Ind. Cas. 583 = 9 S.L.R. 150. K

(b) It is enough if such a document is properly stamped before the decree is passed. 8 M.L.J. 182. L

##### (2) Promissory note executed in Mecca—Suit brought in Calcutt—Jurisdiction.

A suit will lie on a promissory note executed outside British India, although it is not stamped. Probably it may be sufficient if a stamp is affixed to the document at the time the decree is passed. 25 M.L.T. 191 = 36 M.L.J. 188 = 52 Ind. Cas. 477 (9 M.L.J. 135 = 22 M. 337, F.). M

### Section 19-A

[Newly added by various Local Legislatures].

[For Madras only]—

19-A. Where any instrument has become chargeable in any part of

Payment of duty on certain instruments liable to increased duty under clause (bb) of section 3.

British India other than the Presidency of Madras with duty under the stamp law in force in that part of British India and thereafter becomes chargeable with a higher rate of duty in the said Presidency under clause (bb) of the first proviso to section 3 :—

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India.

## S. 19 A—Newly added by various Local Legislatures.

- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and
- (iii) the provisions contained in clause (b) or clause (c), as the case may be, of the proviso to sub-section (3) of section 32 shall, with the necessary modifications, apply to such instrument, but the provisions contained in clause (a) of the said proviso shall not apply thereto.—*Madras Act VI of 1922.*

## [For Bengal only].—

Payment of duty on certain instruments liable to increased duty in Bengal under clause (bb) of section 3.

19-A. Where any instrument has become chargeable in any part of British India other than Bengal with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in Bengal under clause (bb) of the first proviso to section 3—

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—*Bengal Act III of 1922.*

## [For Bombay only].—

Payment of duty on certain instruments liable to increased duty in Bombay Presidency.

19-A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Presidency of Bombay is executed out of the said Presidency and subsequently received in the said Presidency—

- (a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Presidency of Bombay less the amount of duty, if any, already paid on it in British India,
- (b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps

**S. 19-A—Newly added by various Local Legislatures.**

necessary, for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and

- (c) the provisions contained in clause (b) of the proviso to subsection (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto.—*Bombay Act II of 1922.*

**[For Central Provinces only].—**

Payment of duty on certain instruments liable to increased duty in Central Provinces.

**19-A.** Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Central Provinces is executed out of the said province and subsequently received in the said province—

- (a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Central Provinces less the amount of duty, if any, already paid on it in British India,
- (b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it becomes chargeable with the higher duty, and
- (c) the provisions contained in clause (b) of the proviso to subsection (3) of section 32 shall apply to such instrument as if it were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto.—*Central Provinces Act II of 1923.*

**[For the Punjab only].—**

**19-A.** Where any instrument has become chargeable in any part

Payment of duty on certain instruments liable to increased duty in the Punjab under clause (bb) of section 3.

of British India other than the Punjab with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in the Punjab under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922,—

## S. 19-A—Newly added by various Local Legislatures.

- (i) notwithstanding anything contained in the said proviso, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—  
*Punjab Act VIII of 1922.*

## [For Assam only].—

**19-A.** Where any instrument has become chargeable in any part of British India other than Assam with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in Assam under clause (bb) of the first proviso to section 3—

Payment of duty on certain instruments liable to increased duty in Assam under clause (bb) of section 3.

- (i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—  
*Assam Act III of 1922.*

## [For United Provinces only].—

**19-A.** Where any instrument has become chargeable in any part of British India other than the United Provinces with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in the United Provinces under clause (bb) of the first proviso to section 3—

Payment of duty on certain instruments liable to increased duty in the United Provinces under clause (bb) of section 3.

- (i) notwithstanding anything contained in the first proviso to section 3 the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule I-A less the amount of duty, if any, already paid on it in British India,

## S. 19-A—Newly added by various Local Legislatures.

- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty.—*U.P. Act V of 1923.*

*D.—Of valuations for Duty.*

**20.** (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of British India, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Conversion of  
amount expressed in  
foreign currencies.

(2) The Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

**NOTES.**

Old Acts :—

*Act I of 1879 :—S. 20.*

*Act XVIII of 1869 :—S. 10 provided certain rates of exchange which do not prevail now.*

**21.** Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Stock and market-  
able securities how  
to be valued.

**NOTES.**

Old Acts :—

*Act I of 1879 :—S. 21.*

*Act XVIII of 1869 :—No corresponding provision.*

**22.** Where an instrument contains a statement of current rate of exchange, or average price<sup>1</sup>, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

#### NOTES.

##### Old Acts:—

*Act I of 1879*:—S. 22.

*Act XVIII of 1869*:—No corresponding provision.

##### 1.—“Average price.”

Suit for recovery of paddy or its value—Instrument properly stamped on value set out in it—Increase in price of paddy.

*Held* instrument not affected. 13 C. 268 ; but see 26 C. 179.

N

**23.** Where interest is expressly made payable by the terms of an instrument, such instrument<sup>1</sup> shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instruments re-serving interest.

#### NOTES.

##### Old Acts:—

*Act I of 1879*:—S. 23.

*Act XVIII of 1869*:—S. 9.

##### 1.—“Where interest.....instrument”.

##### (1) Bond for re-payment of double the amount borrowed,

A bond (securing a loan), which recites that double the amount must be repaid for principal and interest in certain instalments, or earlier in case of default in the punctual payment of interest, is one chargeable with a stamp duty chargeable on double the amount lent. S. 23 has no application to such a bond. 26 C. 179. [R., 11 C.W.N. 1122 ; 4 N.L.R. 90 ; *Not F.*, 3 Bom. L.R. 133.] See, also, 11 C.W.N. 1120 ; 25 B. 375.

O

##### (2) Account stated with provision for interest.

An— is chargeable only with a duty of one anna. 4 B. 326. See, also, B.P.J. 1887, 35.

P

##### (3) Certificate of sale.

A—in respect of property subject to a mortgage is chargeable with stamp-duty only in respect of the principal sum due on the mortgage and not in respect of any arrears of interest due thereon at the date of sale. 5 B. 470. See, also, 1 M. 378.

Q

## 1.—“Where interest.....instrument”—(Concluded).

## (4) Bond providing for interest in a lump.

Where a bond provided for re-payment of the sum borrowed together with a specified lump sum on account of interest and made no mention of the rate of interest; *held*, the instrument was chargeable with duty only in respect of the amount of principal secured thereby. 3 Bom. L.R. 133. See, also, 4 N.L.R. 90. R

## (5) Acknowledgment—Pro-note.

An acknowledgment of indebtedness containing an express promise to pay on demand the amount acknowledged to be due together with interest at a certain rate, is chargeable with duty as a promissory note. 3 Bom. L.R. 839. S

## (6) Promissory note sufficiently stamped if stamp covers principal amount.

See 2 B.L.R. O.C. 165. T

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

[1] **23-A.** (1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (c) [2] of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

## Legislative Changes—Imperial.

[1] Section 23-A was newly added by Act XV of 1904.

[2] The words “Article No. 5 (c)” were substituted for the words “Article No. 5 (b)” by Act I of 1912.

## Legislative Changes—Provincial.

**[For Madras only]**—In sub-section (1) [a] of section 23-A after the word and figure “Schedule I”, the words, figure and letter “or article No. 4 (c) of Schedule I-A as the case may be” shall be inserted.—*Mad. Act VI of 1922.*

**[For the Punjab only]**—In sub-section (1) of section 23-A, the letter “A” shall be added after the figure “I”.—*Punjab Act VIII of 1922.*

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NOTE :—[a] “(b)” was omitted by *Mad. Act VI of 1923, S. 2.*

**24.** Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not <sup>1</sup>, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty :

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I <sup>2</sup>.

*Explanation.*—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale :

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage <sup>3</sup>.

#### *Illustrations.*

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500, which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

#### Legislative Changes—Provincial.

[For Madras only].—In section 24 after the word and figure "Schedule I", the words, figures and letter "*or article 16 of Schedule I-A as the case may be*" shall be inserted—*Mad. Act VI of 1922.*

[For the Punjab only].—In the proviso to section 24 for the full stop shall be substituted a comma followed by the words, figure and letter, "*or Schedule I-A, as the case may be*"—*Punjab Act VIII of 1922.*

#### NOTES.

Old Acts :—

*Act I of 1879* :—S. 24 with the exception of the provisos and explanation and illustrations, which were all newly enacted by Act II of 1899.



*Act XVIII of 1869 :—S. 34 (b) :—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act, shall be paid, notwithstanding the purchaser is not or does not become personally liable for such debt or sum, or does not agree to pay the same or to indemnify the seller against the same.*

### General.

#### (1) Scope of section.

This section has no connection with liability to registration. See 3 N.L.R. 72. U

#### (2) Relinquishment by mortgagor.

Where, under an instrument, a mortgagor relinquished his title to the mortgaged property in favour of the mortgagee and also agreed to pay the Government assessment until the transfer of the land in the name of the mortgagee-purchaser in the Collector's books, it was held that such an instrument was a conveyance, of which the amount of the consideration, calculated according to S. 24, Act I of 1879, was the original mortgage-amount *plus* the amount mentioned in the instrument. 15 B. 675. Y

N B.—Now, see proviso to explanation *supra*. See 32 A. 171 hereon.

#### 1.—“ Subject.....to the payment.....whether.....constituting a charge.....or not.”

#### (1) Sale of property subject to a mortgage, how charged.

Where property is sold merely *subject to a mortgage* or other incumbrance, it does not necessarily follow that the sale is made subject to the payment of the mortgage-money. It is only when the vendee buys with an express *undertaking to pay off* the mortgage that it can be said that the sale is made *subject to the payment* of the mortgage or other incumbrance, so that the amount due on such mortgage or incumbrance might form the consideration, or a portion of the consideration, for the sale necessitating the payment of stamp-duty on the amount of such mortgage or incumbrance. 5 M. 18 (F.B.) ; 10 C. 92=13 C.L.R. 164. W

But see 5 B. 470 (F.B.) and 15 B. 532 (F.B.), which held that, where a sale or other transfer is made ‘subject to a mortgage or other charge’ in favour of a third party, the principal amount alone (and *not the interest*) due under such mortgage or charge will form part of the consideration for the sale and stamp duty will be leviable thereon.

Compare also, 9 B. 47.

N. B.—The above decisions were under Act I of 1879. Under the explanation, which has been newly added to the section, the instruments referred to in the decisions noted above will be liable to stamp-duty calculated not only on the consideration money actually paid but also on the principal and interest due on the encumbrance, or encumbrances, subject to which the sale has taken place.

#### (2) Sale of property—Property subject to incumbrance—Vendor accepting liability to pay off incumbrance—Stamp duty.

A sale deed of certain property was executed by the vendors for a consideration of Rs. 10,000—a sum which was in fact the full market value of the property free from all incumbrances. The property sold, was, however, along with another property, subject to a mortgage incumbrance of Rs. 13,858-6-0 and was also subject to attachment in respect whereof Rs. 1,500 were payable. Under the terms of the sale deed, the liability for the mortgage charges and for the amount payable in respect of attachment was accepted by vendors. The stamp duty actually paid was on Rs. 10,000. The Collector demanded the duty on that amount as well as the amount of the incumbrances under section 24. A reference being made to the High Court at the instance of the purchaser. Held, that the proper stamp duty payable was only on the amount of the consideration of the sale deed, viz., Rs. 10,000. 49 B. 73=26 Bom. L.R. 942 (F.B.). X

2.—“*Provided.....Article 18 of Schedule I.*”**Stamp-duty payable on a sale certificate.**

The— is determined by the purchase-money actually paid by the auction-purchaser under Art. 18 of Sch. I, notwithstanding the fact that the property sold is subject to an encumbrance at the date of sale. 5 M. 18 (F.B.); 7 M. 421 (F.B.); 10 C. 92; 15 A. 107. Y

But see 5 B. 470 (F.B.) and 15 B. 532 (F.B.), where it was held that the amount of the purchase-money paid *plus* the principal amount alone (and not the interest) due on the mortgage or other incumbrance, subject to which the property is sold will form the consideration for the sale and stamp duty will be leviable thereon; See 18 B. 175. Y 1

3.—“*Proviso to explanation.*”(1) **Scope of proviso.**

The proviso contemplates that, to entitle the mortgagor to a deduction, the property transferred ought to be identical with that mortgaged and should not form merely a part thereof. 29 B. 203 = 6 Bom. L.R. 844. Z

(2) **Sale to assignee of mortgagee.**

The benefit provided by this proviso enures also for the benefit of the assignee of a mortgagee. 5 Bom. L.R. 523. A

**General.**(1) **Construction of exemption clauses.**

An enactment imposing a burden on the subject, requires a strict construction in favour of the subject; but exemptions in the Stamp Act must be construed strictly in favour of the State. 5 Bom. L.R. 523. B

(2) **Assignment of demise of lease-hold property.**

In the case of—, where the assignee agreed to pay the rent reserved by the original lease, held, that the *ad valorem* duty leviable on the assignment ought to be calculated only on the amount actually paid as consideration for the assignment and that the rent reserved by the lease ought not to be taken into account. 24 B. 257 = 2 Bom. L.R. 401. C

(3) **Assignment of debt.**

In the case of—the value of the consideration of the *havala* is the amount of debt. 27 B. 150. D

(4) **Sale to mortgagee of mortgaged property.**

Where mortgaged property is sold to the mortgagee along with other property not mortgaged, the stamp on the deed of sale need not cover the mortgaged property. 4 Bom. L.R. 430. E

(5) **Present demise for portion of consideration actually paid.**

Where a deed of mortgage had been executed as a present demise on plain paper for a sum of money, part only of which was paid as consideration, the remainder remaining unpaid and the mortgagee getting the deed registered on payment of stamp penalty, held, the deed operated as a present mortgage for the portion of the consideration actually paid. 6 Bom. L.R. 690. F

**25.** Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument

Valuation in case of annuity, etc.

or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

- (a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;
- (b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and
- (c) where the sum is payable for an indefinite time terminable with any life in being <sup>1</sup> at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

#### NOTES.

Old Acts:—

*Act I of 1879* :—S. 25 :—Same as above.

*Act XVIII of 1869* :—S. 12.

#### General.

##### (1) Scope of section.

See 24 B. 257 = 2 Bom. L.R. 401 noted under S. 24, *supra*.

G

##### (2) U.C.S. Family Pension fund—Entrance Certificate.

An entrance certificate granted under the rules of the Uncovenanted Civil Service Family Pension Fund is a life-policy within S. 2 (19), cl. (b). If it is for an amount within Rs. 1,000, it is chargeable with a duty of six annas. It is not within the scope of S. 25 (c). 19 C. 499.

H

#### 1.—“Terminable with any life in being.”

##### Award.

An—directing payment of a sum of Rs. 5 *per mensem* to a certain person but without any mention as to whether the sum secured should be paid to the heirs or representatives of the person, to whom it was payable, *held* liable to stamp duty under this clause. 16 A.W.N. 197.

I

## 26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem*

Stamp where value of subject-matter is indeterminate.

duty <sup>1</sup> cannot be, or (in the case of an instrument executed before the commencement of this Act <sup>2</sup>) could not have been, ascertained <sup>3</sup> at the date of its execution or first execution

nothing shall be claimable<sup>4</sup> under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient<sup>5</sup> :

[1] Provided that, in the case of the lease of a mine<sup>6</sup> in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(a) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year ;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease :

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

### Legislative Changes—Imperial.

[1] This proviso was substituted by Act XV of 1904 for the original proviso.

### NOTES.

#### Old Acts :—

*Act I of 1879 :—S. 26.* Same as above without the provisos.

*Act XVIII of 1869 :—S. 11.*

*Act X of 1862 :—S. 27.*

#### 1.—“Where.....ad valorem duty.”

#### (1) Scope and applicability.

(a) This section deals only with the quantum of interest allowable in a suit when a document is sued on and accepted as evidence and does not refer to any question of its admissibility. 4 L.W. 472=31 M.L.J. 347=(1916) 2 M.W.N. 221=35 Ind. Cas. 864. J

(b) Section is not applicable to cases where the value of the subject-matter can be ascertained. 15 W.R. P.C. 32; 7 B.L.R.A.C. 14=15 W.R. 331. K

## 1.—“Where.....ad valorem duty”—(Concluded),

- (c) This section extends only to cases of instruments liable to *ad valorem* duty. It is inapplicable to cases of instruments chargeable with fixed duty (e.g.) instruments falling under Art. 62 (c) and Art. 57 (b) of the Act. 27 M. 71. L

- (2) Document leasing land for ten years for Casurina plantation unstamped but registered—Stamp duty—Unstamped instrument admitted in evidence.

Under an instrument called a lease, the defendant was entitled to the exclusive possession of a certain land for 10 years. His obligation was to plant and rear at least fifty thousand Casurina trees. The trees when grown were to be cut at the expense of both the parties and the plaintiff was entitled to a moiety of the sale-proceeds. There was no date or period or periods fixing for that cutting. The instrument was not stamped though registered. Plaintiff sued for damages for breach of the terms of the instrument. Defendant contended the instrument being unstamped, plaintiff could get nothing by reason of S. 26. *Held* that the value of the subject-matter of the instrument was not one which could not be ascertained at the date of its execution and S. 26, did not apply. 31 M.L.J. 234=39 Ind. Cas. 448. M

- (3) Document, securing advance of money up to a fixed maximum value of subject-matter of document, rule for determination of.

A document, bearing a stamp of Rs. 15 and recording the terms of a loan transaction, provided that, subject to a maximum of Rs. 50,000 the lender was to advance and be repaid monies in a particular manner from time to time and was to have a security upon all the paddy and rice kept by the borrower in his mill up to Rs. 50,000 for what was at any time owing to the lender under the document. *Held* that the amount of the subject-matter of the charge was Rs. 50,000. Where there is a maximum limit in a document, which creates a charge in receipt of a varying account, the maximum must be taken to be the amount that is intended to be secured. *Held* that, to this document, S. 36 did not apply, and that the deficiency in the stamp could be made good under S. 35 *infra*. 9 L.B.R. 217=12 Bur. L.T. 1=50 Ind. Cas. 303. M-1

- (4) Lease of mine—Maximum stamp not paid—Royalty claimed exceeding amount covered by stamp.

Where in a mining lease the maximum stamp provided in S. 26 is not paid and the stamp paid is not sufficient to cover the royalty amount claimed in the suit, the lessor is not precluded from recovering the royalty really due and he can recover the same on payment of the deficiency in the duty and penalty under S. 35. 1920 Pat. 289=5 Pat. L.J. 660=58 Ind. Cas. 99=1 Pat. L.T. 719. N

## 2.—“Executed before the commencement of the Act.”

- (1) Sale-deed under Bombay Regulation XVIII of 1827.

In the case of a sale-deed executed on an one-anna stamp when Regulation XVIII of 1827 (Bombay) was in force, *held*, the deed was sufficiently stamped under cl. 2 of S. 2 of that Regulation but that the plaintiff suing thereon cannot obtain a judgment thereon for a sum or value beyond what is covered by the deed, unless he wished to pay an additional stamp-duty and penalty. 10 B. 289. O

- (2) Bombay Regulations—Sch. A and S. 14—Promissory note containing agreement to waive jurisdiction.

A promissory note containing an agreement by the maker that, in case of any dispute or difference arising concerning the payment of the note or the subject-matter thereof, the same shall and may be sued in the Supreme Court, “and to the jurisdiction of which I hereby waive and agree to waive all pleas,” properly stamped as a promissory note, did not require an additional stamp as an agreement under Act XXXVI of 1860, sch. A and S. 14. 1 Ind. Jur. O. S. 124. P

3.—“*Could not have been ascertained.*”

Rent payable in kind worth a certain amount.

Where a lease provided for payment of a certain quantity of grain worth a certain amount as rent, it was *held*, that this section did not apply so as to render the value of the grain stated in the deed as the maximum recoverable under the contract, as the value of the subject-matter of the instrument, being the amount or value of the average annual rent reserved under cl. 39, could not be said to be incapable of ascertainment. 4 M.L.J. 201. Q

4.—“*Claimable.*”

Meaning of the word.

The word ‘claimable’ means claimable in a Court of Justice.

In the case of a mortgage-deed to secure future advances up to the amount of Rs. 10,000 at a time, executed on a stamp of Rs. 50, the mortgagee had privately realized more than Rs. 10,000 and sued for the balance due. It was *held* that sums paid back privately ought not to be taken into account in calculating the stamp duty. 31 C. 807=8 C.W.N. 667. R

5.—“*More than the highest amount.....sufficient.*”

(1) Security bond under Act XXXVI of 1860.

In the case of a —executed on an optional stamp, it was *held* that no larger sum could be recovered than what the optional stamp covered and that no amount of penalty could make up the deficiency in the stamp. 17 W.R. 131. S

(2) Lease under Act XVIII of 1869.

In the case of a —it was *held* that, when the amount of rent payable for the first year could not be ascertained in order to determine the proper stamp under the Act for a lease and more rent was recovered than the stamp affixed warranted, sufficient effect was given to S. 26 of the Act I of 1879 (=the present section) by limiting the amount recoverable for the first year to the amount which stamp would cover. 3 M. 342 (F.B.); see, also, 9 A. 585. T

6.—“*In the case of the lease of a mine.*”

Mining lease—Claim for royalty in excess of the amount covered by the stamp—Right to recover the whole amount of royalty.

The full amount of royalty can be recovered under a mining lease though in excess of the amount covered by the stamp originally put on the lease after the deficient stamp duty and penalty have been paid. 47 M.L.J. 300=5 Pat. L.T. 570 (P.C.). T-1

## General.

(1) Where a written contract liable to an optional stamp is put in evidence by the defendant, the plaintiff cannot recover a larger amount under it than (if stated) the optional stamp upon the instrument would have been sufficient to cover. 4 M.H.C.R. 120. U

(2) See 24 B. 257=2 Bom. L.R. 401 noted under S. 24, *supra*. Y

**27.** The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein <sup>1</sup>.

Facts affecting  
duty to be set forth  
in instrument.

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 72. Same as above.

*Act XVIII of 1869* :—S. 34 (a).

*Act X of 1862* :—S. 51 (1).

1.—“ *Shall be.....set forth therein.* ”

## (1) Requirements of section.

This section requires the consideration and other facts affecting duty to be set forth in the instrument. 1920 Pat. 289=5 Pat. L.J. 660=58 Ind. Cas. 99. W

## (2) Construction of instruments.

In determining whether a particular instrument is sufficiently stamped, the Court should only look at the instrument as it stands. 27 B. 279=5 Bom. L.R. 28 (*following* 16 C. 432). X

## (3) Document while Regulation XIII of 1816 (Madras) was in force.

In the case of a document, executed while Madras Regulation XIII of 1816 was in force, it is competent for the Judge to ascertain the value of the property covered by the instrument for purposes of ascertaining the amount of stamp leviable thereon. 17 M. 473 (476)=4 M.L.J. 192. Y

## (4) Lost document.

No penalty can be levied and secondary evidence admitted in the case of a — because the document on which the penalty can be levied is not forthcoming. 17 M. 473=4 M.L.J. 192 ; 7 M. 440. Z

## (5) Stamp for assignment of mortgage debt.

—must be paid on what is stated in the instrument. 5 B.L.R. 103=14 W.R.A.O.J. 38. A

## (6) Valuation—Increase.

See 8 M. 453 ; 44 A. 339=20 A.L.J. 161. B

## (7) Omission, effect of.

See 32 A. 171. C

## (8) Admission of collateral evidence.

In applying the stamp Law, what is stated in the instrument ought to be looked to and reference must not be made to collateral evidence or to the conduct of the parties. D.C.R. Part V (1). D

**28.** (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such

Direction as to duty in case of certain conveyances.

manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to

the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

#### NOTES.

##### Old Acts :—

Act I of 1879 :—S. 28. Same as above.

Act XVIII of 1869 :—No corresponding provision in any of the Acts prior to Act I of 1879.



*E.—Duty by whom payable*<sup>1</sup>.

**29.** In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

Duties by whom payable.

(a) in the case of any instrument described in any of the following articles of Schedule I, namely :—

No. 2 (Administration Bond),

[1] [No. 6 (*Agreement relating to Deposit of Title-deeds, Pawn or Pledge*),]

No. 13 (Bill of Exchange),

No. 15 (Bond),

No. 16 (Bottomry Bond),

No. 26 (Customs Bond),

No. 27 (Debenture),

No. 32 (Further Charge),

No. 34 (Indemnity-bond),

No. 40 (Mortgage-deed),

No. 49 (Promissory-note),

No. 55 (Release),

No. 56 (Respondentia Bond),

No. 57 (Security-bond or Mortgage-deed),

No. 58 (Settlement),

No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),

No. 62 (b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 62 (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making<sup>2</sup> or executing such instrument :

[2] [(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance ;

(bb) in the case of a policy of fire-insurance—by the person issuing the policy ;]

- (c) in the case of a conveyance (*including a re-conveyance of mortgaged property*) by the grantee; in the case of a lease or agreement to lease—by the lessee or intended lessee ;
- (d) in the case of a counterpart of a lease—by the lessor ;
- (e) in the case of an instrument of exchange—by the parties in equal shares ;
- (f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates ; and
- (g) in the case of an instrument of partition—by the parties thereto <sup>3</sup> in proportion to their respective shares in the *whole* property *partitioned*, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

#### Legislative Changes—Imperial.

[1] Substituted by Act XV of 1904.

[2] Substituted by Act V of 1906.

#### Legislative Changes—Provincial.

**[For Madras only].**—In clause (a) of section 29 after the word and figure "Schedule I" the words figure and letter "*or the corresponding articles of Schedule I-A as the case may be*" shall be inserted.—*Mad. Act VI of 1922.*

**[For the Punjab only].**—In clause (a) of section 29, the letter "A" shall be inserted between figure "I" and the word "namely".—*Pun. Act VIII of 1922.*

#### NOTES.

##### Old Acts :—

*Act I of 1879 :—S. 26*—Same as above except the italicized portions.

Duties by whom payable. *Act XVIII of 1869 :—S. VI. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—*

*1st.*—In the case of any instrument mentioned in the first Schedule to this Act (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition an appraisement or valuation, an award and a copy, duplicate or extract), by the person drawing, making, or executing such instrument :

*2nd.*—In the case of a policy of insurance, by the insured ;

3rd.—In the case of a settlement, by the settlor :

4th.—In the case of a conveyance, mortgage-deed or lease, by the grantee, mortgagor or lessee :

5th.—In the case of a counter-part of a lease, by the lessor :

6th.—In the case of a partition-deed, by the parties thereto in proportion to their respective shares in the property comprised therein ; and

7th.—In the case of an exchange where money is paid for equality of exchange, by the person paying such money.

### 1.—“Duty by whom payable.”

Agreement purporting defendant to bear costs incidental to preparation of deed.

Held plaintiff should be given Stamp duty paid by him. 21 B. 126.

E

### 2.—“Person making.”

Promissory note.

Person making—to stamp the same. 24 W.R. Cr. R. 1,

F

### 3.—“Parties thereto.”

(1) Meaning of the expression.

The expression means not only the party or parties applying for partition but the whole co-sharer, who must necessarily be parties in the partition-proceedings and equally bear the proper stamp duty. 2 A. 664 (666).

G

(2) Receipts by members of a Hindu family.

Receipts given by some members of a Hindu family to the others, whereby each acknowledges receipt of certain property made over to him and his liability to pay a definite share of the family debt, reciting that a division of family property had been previously effected, are instruments of partition. Each instrument is liable to stamp duty on the value of the share taken by the executant of the receipt. 15 M. 164 (F.B.).

H

## Section 29-A.

[Newly added by the various Local Legislatures.]

[For Bengal only].—

29-A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A.—*Bengal Act III of 1922.*

[For Assam only].—

29 A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Assam Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule I-A.—*Assam Act III of 1922.*

Applications of sections 23-A, 24 and 29 to instrument chargeable with duty under Schedule I-A.

S. 29-A—Newly added by the various Local Legislatures.

[For United Provinces only].—

Application of sections 23-A, 24 and 29 to instrument chargeable with duty under Schedule I-A.

29-A. In applying section 23-A, 24 or 29 to any instrument chargeable with a higher rate of duty under the United Provinces Stamp (Amendment) Act, 1923, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding article in Schedule I-A.—U. P. Act V of 1923.

**30.** Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or *part satisfaction* of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money<sup>1</sup>, bill, cheque, note or property, give a duly stamped receipt for the same.

Obligation to give receipt in certain cases.

[1] Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

### Legislative Changes—Imperial.

[1] This paragraph was added by Act V of 1906.

### NOTES.

#### Old Acts:—

Act I of 1879 :—S. 58, same as above except the italicized portion.

Act XVIII of 1869 :—S. 27 (a).—*Any person, or the agent of any person, from whom money exceeding in amount Rs. 20 is due or claimed to be due, and who shall have paid such money, may provide a piece of paper with an adhesive stamp of one anna affixed thereto, and may require of the person, entitled to such money or any agent to whom the same shall have been paid, a receipt for such money and also the value of the said stamp.*

Act X of 1862 :—Cf. S. 29.

1.—“ On demand by the person paying.....money.”

#### (1) Person—Meaning.

“ Person ” includes members of a trading partnership. 37 C. 324=4 C.W.N. 440. I

#### (2) Receipt.

This section does not require a person receiving money to state the particular purpose for which money is paid. Beyond granting receipt for the sum paid he has nothing else. 34 A. 192=9 A.L.J. 97=13 Ind. Cas. 778=13 Cr. L.J. 122.

1.—“On demand by the person paying.....money”—(Concluded).

(3) Endorsement of payment on a receipt.

A mortgagor gave a duly stamped receipt to the mortgagee for receipt of the consideration of the mortgage. After the mortgage-debt was satisfied, he took back the receipt from the mortgagee with an endorsement thereon worded thus ‘balance of debt nil.’ *Held*, that the endorsement did not require any stamp; it may be received in evidence and secondary evidence of payment may be admitted, the section only laying down that the payer may demand a receipt and its effect not being to preclude evidence of payment in a case like the one in question. 8 M.L.J. 269. K

## CHAPTER III.

### ADJUDICATION AS TO STAMPS.

**31.** (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable <sup>1</sup>.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by

reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

### NOTES.

#### Old Acts :—

*Act I of 1879 :—S. 30.*

*Act XVIII of 1869 :—S. 39.*

*Act X of 1862 :—S. 19.*

#### 1.—“ *The Collector.....chargeable.*”

#### Effect of adjudication by Collector.

The—under this section, as to the duty with which an instrument is chargeable, is to render final the question of stamp required for the same. The Revenue authorities cannot, in such cases, make a reference to the High Court under S. 57 of the Act. 25 M. 751. L

**32.** (1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify <sup>1</sup> by endorsement, on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and if chargeable with duty shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse—

(a) any instrument executed or first executed in British India and brought to him after the

expiration of one month from the date of its execution or first execution, as the case may be ;

- (b) any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India ; or
- (c) any instrument chargeable with the duty of one anna <sup>[1]</sup> [or half an anna] or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof, on paper not duly stamped.

### Legislative Changes—Imperial.

[1] The words " or half an anna " were inserted by Act V of 1906.

### Effect of Changes made by Act XIII of 1924 (The Indian (Specified Instruments) Stamp Act).

S. 3 (4)—Where, before the commencement of this Act (XIII of 1924) any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (1) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

### Legislative Changes—Provincial.

[For Bombay only].—In the proviso (c) to section 32, before the words " one anna ", the words " *two annas* " shall be inserted.  
—*Bom. Act II of 1922.*

[For Bengal only].—

In section 32 of the said Act—

- (1) in clause (a) of the proviso, after the words " any instrument " the words " *other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3* " shall be inserted ;
- (2) the word " or " at the end of clause (b) of the proviso shall be omitted ;
- (3) after clause (c) of the proviso the following shall be inserted, namely :—

" or

" (d) *any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Bengal.*"—*Bengal Act III of 1922.*

**[For Madras only].—**

In clause (c) of the proviso to sub-section (3) of section 32, after the words "half an anna," the following shall be inserted, namely :—

*"or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clauses (aa) or (bb) of section 3 with a duty of two annas."*—*Madras Act VI of 1922.*

**[For the Punjab only].—**

In section 32—

(1) in clause (a) of the proviso, after the words "any instrument" the words "*other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922*" shall be inserted ;

(2) the word "or" at the end of clause (b) of the proviso shall be omitted ;

(3) after clause (c) of the proviso the word "or" shall be added followed by a new clause (d) as follows :—

*"(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Punjab Amendment) Act, 1922, and brought to him after the expiration of three months from the date on which it is first received in the Punjab."*—*Punjab Act VIII of 1922.*

**[For Assam only].—**

In section 32 of the said Act,—

(1) in clause (a) of the proviso, after the words "any instrument" the words "*other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3*" shall be inserted ;

(2) the word "or" at the end of clause (b) of the proviso shall be omitted ;

(3) after clause (c) of the proviso the following shall be inserted, namely,—

*"or*

*"(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Assam"*—*Assam Act III of 1922.*

**[For the United Provinces only].—**

In section 32 of the said Act—

(1) in clause (a) of the proviso, after the words "any instrument", the words, "*other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3*" shall be inserted ;



(2) the words "or" at the end of clause (b) of the proviso shall be omitted;

(3) after clause (c) of the proviso the following shall be inserted, namely,—

"or

"(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in the United Provinces."—U. P. Act V of 1923.

### NOTES.

#### Old Acts :—

*Act I of 1879* :—S. 31—Same as above.

*Act XVIII of 1869* :—S. 39.

*Act X of 1862* :—S. 19.

#### 1.—"Collector shall certify."

##### (1) Adjudication by Collector as to duty chargeable on instrument, no "case."

A determination by the Collector, under the powers conferred on him by S. 31 of the Stamp Act, of the stamp duty with which an instrument is chargeable, when it has been duly endorsed on the instrument is final, in respect of the instrument under S. 32 of the Act; it is not a "case" which can be referred by the Revenue authorities to the High Court under S. 57 of the Act. The word "case" as used in S. 57 means a matter which has to be disposed of by the Revenue authorities conformably to the judgment of the High Court on the case referred to it for opinion by the Revenue authorities. 25 M. 751 [R., 25 M. 752 (F.B.)]. M

##### (2) Finality of Collector's certificate.

(a) This section makes the Collector's certificate final as to the admissibility in evidence of a document, so far as the admissibility depends on its being duly stamped. 7 N.L.R. 26 = 10 Ind. Cas. 702. N

(b) Civil Courts cannot question the decision, 131 P.L.R. 1906. O

(c) Collector's certificate regarded as an impressed stamp. 11 M. 37. P

##### (3) Effect of endorsement on promissory note.

Where a promissory note, not payable on demand, executed on an unstamped paper was brought to a Collector for his adjudication as to the proper stamp and that officer made the endorsement thereon provided by the section, *held*, the irregularity of procedure adopted by the Collector would not render the promissory note inadmissible in evidence. 3 A. 115 [F., 13 B. 449 (F.B.)]. Q

### General.

##### (1) Test for determination of duty.

The— is the substance of a transaction as disclosed by the instrument rather than its form. 16 M. 85 (89). R

##### (2) Allowance for spoiled stamps.

Allowance for spoiled stamps may be made when a stamped instrument has been endorsed by the Collector under this section. 11 M. 37 (F.B.). S

## CHAPTER IV.

## INSTRUMENT NOT DULY STAMPED.

**33.** (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions<sup>1</sup>, shall, if it appears to him that such instrument is not duly stamped, impound the same.

Examination and  
impounding of in-  
struments.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Provided that—

- (a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;
- (b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

- (a) the Governor General in Council may determine what offices shall be deemed to be public offices ; and
- (b) the Local Government may determine who shall be deemed to be persons in charge of public offices.

## NOTES.

Old Acts :—

*Act I of 1879* :—S. 39. Same as above.

*Act XVIII of 1869* :—Ss. 22 and 23.

1.—*"Comes in the performance of his functions."*(1) *Insufficiency of Stamp, determination of.*

—must be according to the Act in force at the time of execution. See 5 M. 394 (F.B.); 3 M. 251; 7 P.R. 1885. T

(2) *Documents produced under search-warrants.*

The word 'comes' is sufficiently wide to include documents produced before a Magistrate under search-warrants. 25 M. 525. U

(3) *Instrument insufficiently stamped—Examination optional.*

Under S. 33, it is optional to the Magistrate to examine or impound the instrument if it appears to be insufficiently stamped. 16 Cr. L.J. 543=29 Ind. Cas. 671. Y

(4) *Impounding of document insufficiently stamped—Conditions necessary for the application of section.*

In a suit for recovery of money on a hatchitta the plaintiff filed along with the plaint the hatchitta which was in a bound volume, which contained a large number of hatchittas executed by other persons in favour of the plaintiffs. The hatchitta on which the suit was brought being found to be insufficiently stamped, the Munsif examined the other hatchittas and impounded them under S. 33 finding them to be insufficiently stamped. *Held*, that under S. 33 the Munsif had no jurisdiction to impound the hatchittas other than the one which formed the basis of the suit. (See 131 P.L.R. 1906, (F.B.)). Before action can be taken under sub-S 1 of S. 33, it must be established that the instrument in question was produced or came before the Officer mentioned therein in the performance of his functions and having regard to the stage at which the Munsif took action, it could not be said that the hatchittas were produced or came before the Munsif in the performance of his functions. 21 C.W.N. 246=27 C.L.J. 525=35 Ind. Cas. 415. W

(5) *Application of S. 61.*

S. 61 of the Act does not apply to the case of an instrument of any of the classes excepted in S. 35, which has been erroneously admitted in evidence by a Lower Court, but in such case the Court could proceed under this section and impound the instrument. 195 P.R. 1883. [Cons., 2 P.R. 1891, (F.B.).] X

(6) *Arbitrators bound by the Act.*

See 13 C.W.N. 63 (68)=1 Ind. Cas. 371=40 C. 219=17 C.W.N. 395=18 Ind. Cas. 978. Y

## Old Law.

(1) *Evasion of stamp-duty.*

Under S. 20 of Act XVIII of 1869, a Court ought not to admit a document in evidence on payment of stamp duty and penalty if it found that the document was unstamped or insufficiently stamped with the intention of evading stamp duty. If the Court inadvertently received stamp-duty and penalty and made an endorsement on an unstamped document and admitted it in evidence but afterwards found that there was an evasion of duty, it ought to cancel the endorsement and impound the deed and send it to the Collector. 24 W.R. 88 [R., 17 C.L.J. 399=16 Ind. Cas. 33]. Z

(2) *Insufficiency of stamps—Civil Courts.*

Act XVIII of 1869 allows the Civil Court to receive the proper amount of stamp, not only in cases of insufficiency of stamp, but also where documents have not been stamped at all. 6 B.L.R. App. 117=15 W.R. 116. A

**34.** Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Special provision  
as to unstamped  
receipts.

#### NOTES.

##### Old Acts :—

No corresponding provision in any of the old Acts.

**35.** No instrument <sup>1</sup> chargeable with duty <sup>2</sup> shall be admitted in evidence for any purpose by any person <sup>3</sup> having by law or consent of parties authority to receive evidence, or shall be acted upon <sup>4</sup>, registered or authenticated by any such person or by any public officer unless such instrument is duly stamped <sup>5</sup> :

Instruments not  
duly stamped in-  
admissible in evi-  
dence, etc.

Provided that—

- (a) any such instrument not being an instrument chargeable with a duty of one anna <sup>[1]</sup> [or half an anna] only, or a bill of exchange or promissory note <sup>6</sup>, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;
- (b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee <sup>7</sup> by the person tendering it ;
- (c) where a contract or agreement of any kind is effected by correspondence <sup>8</sup> consisting of two

or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped ;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ;

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

### Legislative Changes—Imperial.

[1] The words " or half an anna " were inserted by Act V of 1906.

### Changes made by Act XIII of 1924 (The Indian (Specified Instruments) Stamp Act):—

3. (1) No exception or restriction in respect of promissory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (1) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (1) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

### Legislative Changes—Provincial.

[For Bombay only].—In the proviso (a) to section 35, before the words, " one anna ", the words, " two annas " shall be inserted.—*Bom. Act II of 1922.*

[For Madras only].—In clause (a) of the proviso to section 35, after the words, "half an anna only," the following shall be inserted, namely:—

"or a mortgage of crops [article 34 (a) of Schedule I-A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas."—*Mad. Act VI of 1922.*

### NOTES.

#### Old Acts:—

*Act I of 1879*:—S. 34—Same as above except that it did not contain the new provisos (b), (c) and (e) and that its 3rd proviso has now been enacted as S. 36 of the present Act II of 1899.

*Act XVIII of 1869*:—Ss. 18, 20 and 28 (with the proviso to Art. 11 of Sch. II which corresponded to the new proviso (c) above).

*Act X of 1862*:—Ss. 14, 17 (1) and 22 (with the note to Art. 1 of Sch. A which corresponded to the new proviso (c) above).

### General.

- (1) **Stamped instrument admitted in evidence does not apply to criminal proceedings.**

The prohibition contained in the first part of S. 35 that no instrument chargeable with duty shall be admitted in evidence for any purpose or acted upon, unless it be duly stamped, does not apply to proceedings in a Criminal Court. 16 Cr. L.J. 543=29 Ind. Cas. 671. B

- (2) **Application—Admission of document in evidence as being duly stamped—Competency of appellate Court—Bombay Reg. XVIII of 1827, S. 10.**

S. 34 of the Stamp Act (I of 1879), applies to all instruments whenever executed and it must be held to override the special provisions of S. 10 of Bombay Reg. XVIII of 1827 which provides that any instrument which requires a stamp is not valid unless duly stamped. After the admission by a Court of first instance of a document in evidence as having been duly stamped, it is not competent to the appellate Court, under S. 34, Cl. 3 to question its admissibility. If the appellate Court considers the document to be insufficiently stamped, it can only proceed under S. 50. 13 B. 439 [F., 18 B. 737; R., 17 B. 235.] C

- (3) **Determination of stamp.**

(a) In determining the duty payable on an instrument, the Court must have regard to its real nature and not the name (which may be a misnomer) given to it by the parties. 3 B.H.C.A.C. 94 [R., 6 B. 304; D., 10 B.H.C. 406]. D

(b) For the purpose of determining the duty payable on a deed and deciding upon its admissibility in evidence, the deed itself, as it stands, ought to be looked at without reference to any collateral circumstances appearing in evidence. 16 C. 432 (5 B.L.R. 103). E

(c) The duty chargeable on an insufficiently stamped document must be decided with reference to the Act in force at the date of the execution of the document but the penalty leviable is to be determined, always, in accordance with the provisions of the Act in force at the time of so determining. 5 M. 394 (F.B.); 7 P.R. 1885 (Rev.). F

(d) An instrument, which fell within the definition of a promissory note in the General Stamp Act of 1869, but had not been duly stamped according to that Act (which was in force at the date of its execution) was *held* not admissible on payment of penalty under Act I of 1879, on the ground that it fell within the definition of a bond in the latter Act (the levy of penalty in respect of an instrument implying a punishment for neglect in failing to affix the proper stamp at the time of its execution). 3 M. 251. G

## General—(Continued).

- (e) In order to determine the question whether an instrument is liable to stamp duty or not, the real nature and substance of the transaction must be taken into consideration and not merely the language used by the parties in the operative part of the instrument. 16 M. 85. H

## (4) Calculation of Duty and Penalty.

- (a) An instrument, bearing a stamp which is not of the description required for it, must be *held* to be unstamped and the value of such stamp it happens to bear ought not to be taken into consideration in calculating the stamp due for levying the duty and penalty. 15 M. 259; 8 M. 87. For such cases see S. 37, *infra*. I
- (b) Where a document contained two distinct contracts requiring separate stamps but the whole was written on one insufficient stamp, such insufficient stamp may be taken into account in making up the aggregate of the required stamps. 6 B.H.C.A.C. 95. J

## (5) Duty of appellate Court where a document not stamped or not sufficiently stamped is admitted by lower Court.

- (a) The legislature forbid the Courts acting upon an unstamped document when it is not produced before it but did not forbid the giving of a decree upon an unstamped document which had been wrongly admitted in evidence, because the duty and penalty could be levied by the Collector. The provisions of S. 35 are evidently intended to prevent injustice and it would obviously be unjust for an appellate Court to dismiss a suit on the ground that a document, which the first Court had admitted in evidence, was "unstamped or insufficiently stamped, seeing that if the objection had been taken in the first Court, the document could have been properly admitted in evidence on payment of stamp duty and penalty. 8 Bur. L.T. 290=33 Ind. Cas. 595. K
- (b) Courts of first instance should carefully examine documents chargeable with duty to see that they are duly stamped before admitting them in evidence. When, however, a document not duly stamped has been admitted in evidence it cannot subsequently in the same suit be rejected because it was not duly stamped. L.B.R. (1893—1900) 60. (7 M. 301, R.) L
- (c) The ordinary rule of interpretation is that an enactment is to be construed according to its plain meaning where there is no ambiguity and no sufficient reason for supposing any other meaning to have been intended by the Legislature. When a Court of first instance has admitted in evidence a document not stamped, the appellate Court cannot question its admissibility on the ground that it is not stamped. U.B.R. (1897—1901), Vol. II, 559 (U.B.R. 1892—1896, Vol. II, 633; 13 B. 449; 19 B. 737; 3 C. 787; 8 M. 564; 11 W.R. 521; 16 W.R. 6, R.) [*Affirmed*, U.B.R. 1909, Stamp, 3]; 139 P.R. 1890. M
- (d) Where an unstamped or insufficiently stamped document, which might have been rejected by the Court of first instance, has been admitted in evidence without stamp or penalty and is with the record, the appellate Court ought not to reject the evidence on the ground of want of stamp. 12 W.R. 47=3 B.L.R. (A.C.) 235. [*P.*, 5 B.L.R. App. 10; *D.*, 11 B.H.C.R. 129.] N
- (e) Where an agreement is admitted in evidence rightly or wrongly by the original Court, any objection as to its admissibility in evidence on the ground that it was not properly stamped cannot be entertained in appeal. A.W.N. (1887) 94. O
- (f) Where the trial Court has wrongly treated a promissory note which was unstamped, as if it were an agreement and had admitted it in evidence in contravention of S. 35 on payment of duty and penalty, nevertheless the appellate Court cannot exclude it and in virtue of the provision in S. 36 the admissibility in evidence cannot be questioned. 40 M.L.J. 479=62 Ind. Cas. 607. P
- (g) An unstamped hundi which is admitted in evidence upon an erroneous construction of the law, cannot under cl. 3, S. 34 of the Stamp Act, 1879, be allowed to be called in question in second appeal. Nor can the Court

## General—(Continued).

entertain the objection, as it is not one affecting the merits of the decision 5 M. 220 [F., 8 M.L.J. 66; *Appr.*, 13 B. 449 (F.B.); 17 B. 235]; 2 P.R. 1891; 139 P.R. 1890; 108 P.R. 1908. Q

(h) Admission of a promissory note admitted in evidence under proviso I of S. 34, Stamp Act, 1879, cannot be questioned at any stage of the same suit on the ground that the instrument has not been duly stamped. L.B.R. (1893—1900), 485. (12 C. 64, F.). R

(i) A report entered in the Thugghi's Register No. IX of the transfer of land by sale, signed by the transferor, does not require to be stamped. A Court of Appeal has no power to exclude from evidence an unstamped document already admitted by the Court of first instance before whom no question had been raised about its exemption or otherwise from stamp duty. L.B.R. (1893—1900) 68. S

(j) S. 61 of the Stamp Act is framed for fiscal purposes, that is to say, for the protection of the Government revenue, and it does not affect the provisions of S. 36, which distinctively provides that, when an instrument has been admitted in evidence, such admission shall not be called in question at any subsequent stage of the suit. Therefore, where a document not duly stamped has been admitted into evidence by the first Court, the appellate Court should regard it as admissible in evidence, and at the same time declare that an extra duty ought to be paid and that that duty and the penalty should be leviable from the person, who filed the document, and that that sum might be recovered by the Collector. 7 Ind. Cas. 582 (15 C. 828; 17 C. 726, *Rel.*) T

(k) Where the first Court had admitted a document without any question of stamp, the Appellate Court has no power to act under this section and levy deficient stamp duty and penalty. Its power is only to act under S. 61 and impound a document and send it to the Collector for action. A.I.R. (1924) Oudh 110; 195 P.R. 1883 [*Cons.*, 2 P.R. 1891 (F.B.)] U

It will be acting *ultra vires*, if appellate Court itself levies stamp duty and penalty. 73 Ind. Cas. 307=9 O. & A.L.R. 77. U-1

(l) Attention called to this provision of law which is—"When an instrument has been admitted in evidence, such admission shall not, except as provided herein, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped." U.B.R. (1892—1896), Vol. II, 633 [R., U.B.R. (1897—1901), Vol. II, 559] V

(m) When an instrument has been admitted in evidence, and judgment delivered, its admission can be questioned only by the appellate Court in a proceeding under S. 50 of the Stamp Act, 1879, 8 M. 554 (F.B.). W

(n) The sale-deed in this case executed in 1839 had to be stamped under Reg. X of 1829 which was then in force; and the suit was brought when Act X of 1862 was in operation. The document was therefore inadmissible. But the Court viewed the case as subject alike to ol. 5, S. 14 of Reg. X of 1829 and to S. 17 of Act X of 1862, and held that the Court of first instance might have admitted the document (on the ground that the plaintiff would have been subjected to unmerited hardship or injustice), upon payment of a discretionary fine. The case was accordingly remanded for this purpose. 59 P.R. 1867 [R., 28 P.R. 1978.] X

## [46] Arbitration—Reference—Substitution—Admission—Power of Court.

Arbitrators are entitled to act under S. 35 (a) where on the refusal of one of the arbitrators appointed in a duly stamped reference to act, another was appointed in his place by a written document which was not stamped and if they admitted the document in evidence, their attention being not drawn to the fact, the admission cannot be challenged before them. The failure of the arbitrators to act under S. 35 (a) does not preclude the Court from proceeding under this section in a suit to set aside the award on the ground of absence of stamp.



## General—(Concluded).

Per *Sukrawardy, J.*—The agreement in writing substituting the name of one arbitrator for another already appointed by a duly stamped reference does not require any stamp duty. A I.R. (1924) Cal. 794=28 C.W.N. 871 (27 C.W.N. 513; 19 B. 32, F.). Y

## (7) Contract bearing no stamp and containing arbitration clause—Not invalid.

A contract for sale of goods signed by parties which *inter alia* contains a clause providing for reference to arbitration of disputes arising out of the contract is not invalid, because it does not bear a stamp of annas eight, 10 S.L.R. 14=35 Ind. Cas. 449. Z

## (8) Surrender of equity of redemption—Necessity for stamped deed.

Where property was mortgaged under an instrument, which, on its face, was a deed of absolute sale accompanied by an *ekrar* by the mortgagee, which reserved the equity of redemption to the mortgagor and this *ekrar* was afterwards returned to the mortgagee, it was held that the return of the *ekrar* amounted to a surrender of the equity of redemption to the mortgagee without a necessity for the execution of a separate stamped instrument therefor. 11 W.R. 151. A

## (9) Practice against reception of document.

The High Court of North-West Provinces would not direct the reception of an unstamped document, to which the provisions of this section are applicable, unless the amount of stamp-duty and the prescribed penalty had been tendered when the admissibility of the document was first challenged and on this ground the document was rejected 3 A.W.N. 93. B

## (10) Evasion of stamp-law.

Where, in executing a bond on a plain paper, the obligor stated that, owing to want of money, he could not buy a stamp and that he would pay any penalty the obligee might have to pay in suing the former on the unstamped bond, *held*, there was no agreement to evade the stamp-law. 11 W.R. 553=3 B.L.R. (A.C.) 329. C

## 1.—“No instrument.”

## (1) Necessity for production of original.

(a) For the purpose of levying stamp-duty and penalty on a previously unstamped deed with a view to its being admitted in evidence, the original deed must be produced in Court. 18 A. 295=16 A.W.N. 68. D

(b) Penalty is leviable only on unstamped or insufficiently stamped documents actually produced in Court; there is no provision for the levy of penalty and the admission of secondary evidence in respect of documents lost or not produced in Court. 7 M. 440; 17 M. 473=4 M.L.J. 192; 23 M. 49; 26 I.A. 262; 4 M.H.C.R. 312. E

## (2) Unstamped document—Copy cannot be accepted as evidence on payment of penalty.

Copy of an unstamped document cannot be admitted as an evidence on payment of penalty under this section. 11 P.L.R. 1913=279 P.W.R. 1912=16 Ind. Cas. 950=33 P.R. 1913; 62 Ind. Cas. 637=23 Bom. L.R. 506 (23 M. 49; 30 M. 386; 17 M. 473, F.). F

## (3) Original instrument chargeable with penalty—Documents constituting secondary evidence not governed by the section.

The provisions that have been enacted in the Indian Stamp Act (I of 1879), for the case of deeds either unstamped, or insufficiently stamped, have no application when the original deed, which ought to have been stamped, or was insufficiently stamped, has not been produced. The above provisions deal

## 1.—“No instrument”—(Concluded).

with, and exclusively refer to, the admission as evidence of original documents which, at the time of their execution, were not stamped at all, or were insufficiently stamped. So, a party ought not to be permitted to prove a copy of a deed tendered by him and to use it as secondary evidence either on due payment of a penalty into Court, or upon its endorsement by the Collector. 23 M. 49=26 I.A. 262=4 C.W.N. 117=7 Sar. 597 (P.C.) [F., U.B.R. (1897—1901), 365; U.B.R. (1907), 4th Qr., Execution-Signing, 5.] G

## (4) Loss of original documents—No stamp affixed to such document—Secondary evidence of its contents if admissible.

- (a) A lost instrument cannot, under the Stamp Act, be validated on payment of penalty and deficit stamp duty, which procedure can be adopted only in respect of the original unstamped instrument and secondary evidence of the contents of the such lost unstamped original instrument is not admissible. 16 N.L.R. 68=56 Ind. Cas. 249. But see 2 M. 208, *infra*. H
- (b) Secondary evidence tendered to prove the contents of an instrument, which is retained by the opposite party, after notice to produce it, can only be admitted in the absence of evidence to show that it was unstamped when last seen. 2 M. 208. I

## (5) Unstamped bond—Original lost—Admission of secondary evidence—Original produced with plaint and returned after.

Where an unstamped bond entered in the plaintiff's book of accounts was produced with the plaint and after a copy had compared with it and certified and was left with the plaint the original was returned and the original was stolen before the first hearing and lost, the Court cannot admit in evidence the copy even on payment of penalty, and cannot give a decree thereon. Where a trial Court levied penalty, and gave a decree on the copy which it admitted in evidence and the same was confirmed by the appellate Court, the High Court in second appeal set aside the decree and dismissed the suit holding that the document should not have been admitted and that the penalty also should not have been levied. 3 L. 282=69 Ind. Cas. 723. (on appeal from 66 Ind. Cas. 153); 5 L.L.J. 172 (23 M. 49, *F.*). J

## (6) Inadmissibility of secondary evidence.

Where the original document would be inadmissible as not being sufficiently stamped, secondary evidence of such document is also inadmissible. 19 A.W.N. 210. See 7 M. 440. K

## (7) Insufficiently stamped deed—Duty of Court.

Where an—is produced before Court, its duty is either to reject the document altogether or to require the payment of the duty and the prescribed penalty. It cannot treat it as good evidence in respect of such an extent of property as could be covered by the stamp it bears. 15 W.R. 33=14 M.I.A. 24 (P.C.), L

## 2.—“Chargeable with duty.”

## (1) Pro-note executed in Australia.

An unstamped instrument of 1862 executed in Australia and not chargeable with stamp-duty either under Act XXXVI of 1860 or Act X of 1862 held not to be subject to levy of penalty under Act I of 1879. 14 M. 255 (F.B.). M

## (2) Pro-note executed out of British India.

A note or bill executed out of British India, not being required to be stamped before it is used on or used in Court, this section does not govern such a document, so as to require it to be stamped before it is received in evidence in a suit on the same and it is sufficient if the proper stamp be affixed to it before decree is passed. The obligation to affix stamp for such an instrument does not arise till the holder thereof does any of the things mentioned in S. 19. 22 M. 337=9 M.L.J. 135; 8 M.L.J. 182. See hereon 23 C. 189; 12 M.L.J. 33. N

## 2.—“Chargeable with duty”—(Concluded).

## (3) Promissory note executed out of British India—Admissibility in evidence.

A promissory note executed out of British India is chargeable with duty under Ss. 3 and 19 of the Stamp Act when it is presented, paid or negotiated in British India. Such a promissory note is therefore exempted by S. 35 from being admitted in evidence in a suit filed by the promisee against the maker of the note for the recovery of the amount due on the note. 9 S.L.R. 150=32 Ind. Cas. 582. O

## (4) Promissory note executed in Mecca—Suit brought in Calicut jurisdiction.

A suit will lie on a promissory note executed outside British India, although it is not stamped. Probably it may be sufficient if a stamp is affixed to the document at the time the decree is passed. 35 M.L.T. 191=36 M.L.J. 188=52 Ind. Cas. 477 (8 M.L.J. 182=22 M. 337, F.). P

## (5) Promissory note executed at Rampur in favour of the Nawab without stamp—Stamp affixed when suit filed in British India—Conflict between Rampur Stamp Law, S. 52 and Stamp Act, S. 35—Admissibility.

A promissory note was executed in favour of “the Nawab of Rampur” at Rampur. It was not stamped. According to S. 52 of the Rampur State Law, no document, which required a stamp, but was not stamped, could be admitted in evidence for any purpose or be acted upon, unless it was executed in favour of the State. The suit was brought in British India, plaintiff’s pleader affixing an one anna stamp, when he filed it. The Subordinate Judge held that it was immaterial to find what the law at Rampur was and decreed the suit. On appeal, it was held that it was material to find what law in force at Rampur was about the validity of unstamped document. Held, further, that the note having been executed in favour of “the Nawab of Rampur” and not “Sir Mohamed Hamid Ali Khan Bahadur, &c.”, was one executed in favour of the State within the meaning of the aforesaid proviso, although the money was not advanced to the defendant from the State Treasury. It was, therefore, though unstamped, a note in accordance with the law in existence at the place of contract and could be admitted in evidence against the defendant in British India. 33 A. 571=8 A.L.J. 566=10 Ind. Cas. 247. Q

## (6) Promissory notes executed in the Nizam’s Dominions but stamped only with a British stamp—Suit lies in the British Court.

The defendant executed in the Nizam’s Dominions, a promissory note in favour of the plaintiff. It was stamped with a British Stamp and not with a Hyderabad Stamp which was required by the law of the Hyderabad State. The plaintiff having sued to recover on the promissory note in a Court of British India: Held, that the British Court was competent to adjudicate upon the claim, inasmuch as the Hyderabad law did not render such a promissory note void. 20 Bom. L.R. 464=42 B. 522=46 Ind. Cas. 174. R

## 3.—“Person.”

## Question of stamp duty—Jurisdiction of Small Cause Court.

The plaintiff sued to recover a sum of money, being a debt secured by a *hissab* entered in a leaf of plaintiff’s *khatta*-book, and the defendant denied the claim and objected to the admission of the leaf as it did not bear the proper stamp, held that the Judge of the Small Cause Court was competent to find on the facts before him whether the omission or neglect to execute the instrument on paper bearing the proper stamp did or did not arise from any intention to evade the stamp duty. 13 W.R. 102. S

## 4.—“Acted upon.”

## (1) Scope.

This section forbids the person mentioned in the first part of the section from acting on an instrument tendered for evidence until it is duly stamped. 13 C.W.N. 63=1 Ind. Cas. 371. T

## 4.—“Acted upon”—(Continued).

## (2) Hundi when acted upon.

A Hundi is ‘acted upon’ when a decree is passed on it. The Court, therefore, ought not to pass a decree in a suit on a Hundi, which is inadmissible in evidence on the ground of its not being on impressed sheet, basing such decree upon admissions made by the defendant in his written statement. 18 B. 369 [F., 66 P.R. 1906=73 P.L.R. 1907; 30 M. 386; D., 18 B. 614; Cons., 2 L.B.R. 333; R., 18 B. 745; 24 B. 360; 25 A. 509]. U

## (3) Unstamped instrument not admissible for any purpose.

An instrument, which is chargeable with stamp duty and is not so stamped, is, unlike an invalid instrument which is receivable for collateral purposes, not admissible for any purpose whatsoever, save in Criminal Cases. Secondary evidence of its execution of contents is not receivable, even if it be merely for the purpose of showing the nature of possession transferred by such instrument. 17 M.L.J. 308=30 M. 386 [F., 7 Ind. Cas. 320]. Y

## (4) Promissory note not stamped—Debt due—Suit on the promissory note.

Where the defendant admits liability on an unstamped promissory note executed by him, and it is acted upon, and if a decree is given in accordance with it, it is illegal. 8 M.L.T. 251=(1910) M.W.N. 367=7 Ind. Cas. 320 (29 M. 111, D.; 18 B. 369; 30 M. 386, F.). W

## (5) Unstamped promissory note, inadmissibility of, in evidence—Suit whether maintainable on the verbal agreement embodied in the note—Admission of execution of a deed is not the same as admission of a liability thereunder.

Plaintiff sued to recover money from the defendant, alleging that defendant had executed a pro-note in his favour on account of rent due, and that, as the said pro-note was not properly stamped, he claimed the same as a debt due under a prior book account. The suit, as based on such account, was admittedly barred by limitation at the date of its institution. It was contended on appeal that the suit was maintainable on two other grounds, viz.:—  
(1) When the pro-note was executed, the defendant had agreed verbally to pay the amount in question on a certain date and that limitation, therefore, began to run from that date. (2) Plaintiff could rely upon defendant’s admission of the execution of the pro-note, leaving it to him to prove the repayment of the amount.

*Held* (1) as the oral agreement was, on the same day, embodied in a written agreement (pro-note), the pro-note alone can supply the evidence of the agreement and (24 B. 360, F.; 30 P.R. 1883, R.) the latter cannot be proved *aliunde* (S. 91, Evidence Act); (2) the admission as to the execution of the deed could not be relied on, in respect of the liability thereunder.

Under these circumstances, granting plaintiff a decree would be ‘acting upon’ and giving effect to the pro-note, a document, which under S. 35 of the Stamp Act, could not be admitted and acted upon by a Court for any purpose. 66 P.R. 1906=73 P.L.R. 1907 (18 B. 369; 21 B. 201 (F.B.), F.). X

## (6) Promissory note on an unstamped paper—Whether admissible—Independent cause of action.

Where the plaintiff sued for the money lent, but it was proved that at the time of the transaction the defendant executed a promissory note which was written on an unstamped paper; *Held* that the said unstamped document could not be admitted in evidence or acted upon on account of its being insufficiently stamped and plaintiff can succeed only if he can show that he has a cause of action independently of the document. 7 Bur. L.T. 95=7 L.B.R. 101=23 Ind. Cas. 975 (2 L.B.R. 333, *Rel.on*). But see 24 B. 360=2 Bom. L.R. 25.Y

## (7) Transfer by endorsement by mortgagee.

A —of his interest in the hypotheca is inadmissible if unstamped, as such admission in evidence would be “acting upon” the endorsement. 4 A. 462=A.W.N. (1882) 108. Z

## 4.—“Acted upon”—(Concluded).

## (8) Agreement received and acted upon.

An unstamped agreement for arbitration cannot be received and acted upon by the arbitrator; but if it has been received and acted upon and an award had been passed, the award will not be invalid. 27 C.W.N. 513. A

## (9) Effect of unstamped acknowledgment.

Though an unstamped acknowledgment cannot be acted upon as an acknowledgment of a particular sum being due, it may be used for the collateral purpose of showing the existence of a liability in respect of goods sold. 18 B. 614. B

## 5.—“Unless.....duly stamped.”

## (1) Meaning of the words.

(a) The words mean stamped before, or at the time of, execution. A receipt stamped, not at the time of execution, but subsequent thereto and prior to production thereof before Court in evidence is inadmissible. 13 B. 484. C

(b) The term ‘duly stamped,’ in this section refers to the time when the document is tendered in evidence. 6 Bom. L.R. 699. D

N.B.—See, further, the same case noted under S. 17, *supra*.

(c) Document which have been stamped in accordance with practice which has been recognised by the High Court for long time, though not strictly legal, will be held to be duly stamped. 40 C. 219 = 17 C.W.N. 395 = 18 Ind. Cas. 978 E

(d) Compare 12 B.H.C.O.C. 208, which held that in the case of a document requiring an one anna adhesive stamp, it is enough if the stamp is affixed when the document is produced in Court, though such affixation might be subsequent to suit. F

N.B.—This last decision was one under Act XVIII of 1869.

## (2) Duty of Court to inquire when stamped.

(a) Where a document requiring stamp is tendered in evidence, the only question for the Court to decide is whether it bears a proper stamp when it is tendered in evidence. It is neither bound nor at liberty to allow the parties to enter into evidence as to when the document was stamped. 9 C.L.R. 272; Compare 24 W.R. 198. G

(b) The rule contained in the body of S. 34 of the Stamp Act I of 1879, renders unstamped documents inadmissible in evidence, and the first proviso prescribes a procedure by which they may, in certain cases, be admitted on payment of duty and penalty. The rules belong to the province of procedure, *ad litem ordinationem*, and must regulate the manner in which unstamped documents are to be dealt with in suits instituted after the passing of Act I of 1879, whether such documents were executed before or after the time when the Act came into force.

This view does not proceed upon giving any retrospective effect to the enactment, but, on the contrary, is consistent with the rule that penalties cannot be imposed under a repealed Act.

And the interpretation is borne out by the language of the Act itself for the important expressions ‘chargeable’ and ‘duly stamped’ as they occur in S. 34, must be interpreted in the sense in which they are defined in cls. (5) and (10) of S. 3, and they show that S. 34 contemplates that its provisions are to govern the imposition of penalty on unstamped documents, even though executed before Act I of 1879 came into force. The penalty on the bond in the present case being therefore rightly imposed under S. 34 of the Act, it follows that the provisions of S. 41 are applicable to the case, and available to the plaintiff. A.W.N. (1884) 328; 32 C.L.J. 75 = 59 Ind. Cas. 3. H

## (3) Bond executed on two stamp papers, when admissible—Stamp vendor’s certificate.

A bond which, instead of being executed on a single impressed stamp is written on two stamp papers (making up the aggregate value required), cannot be

## 5.—“ Unless.....duly stamped ”—(Concluded).

said to be properly stamped according to the Stamp Act, in the absence of the stamp vendor's certificate as required by the proviso to S. 49 of the old Act, and a penalty is consequently leviable under S. 20 of the old Act before it can be admitted in evidence. 26 P.R. 1876 (F.B.) (64 P.R. 1874, *over-ruled*; 7 M.H.C. 36, F.).

## (4) Promissory note on impressed sheet.

A promissory note for Rs. 4,300, executed on an impressed sheet bearing an impressed stamp with the word “Hundi” at the top and the words “three rupees” at the bottom of the impression, *held* correctly stamped and admissible in evidence. 14 M. 32.

## (5) Impressed sheets bearing the word “hundi.”

Promissory notes for sums not exceeding Rs. 5,000 made in British India and payable otherwise than on demand but not more than one year after date or eight will be held to be properly stamped though written on impressed sheets of proper value, bearing the word “hundi.” 21 P.R. 1891 (13 A. 66; 14 M. 32, F.).

## (6) Promissory note stamped with four quarter-anna postal stamps—Stamp of improper description.

A demand promissory note stamped with four postal stamps of a quarter anna each is not duly stamped. It cannot be admitted in evidence under S. 35 nor can the stamp be treated as a stamp of improper description within the meaning of S. 37 of the Act. 19 Bom. L.R. 862=42 Ind. Cas. 947. See 52 Ind. Cas. 759.

## (7) Promissory note improperly stamped.

Inadmissible in evidence for any purpose. 5 L.L.J. 148=A.L.R. (1928) Lah. 39. M

## (8) Novation of contract.

Where, in answer to plaintiff's suit based upon a contract, defendant set up an alleged new contract by way of novation but the new contract, having been reduced into the form of a document, was inadmissible in evidence owing to insufficiency of stamp, *held* that the same could not be proved, much less allowed to operate as a discharge of the former contract sued on. 71 P.R. 1897.

## (9) Endorsement of transfer on a bond.

An—properly stamped, requires stamp and such endorsement may be stamped under S. 35, para. 1. 17 B. 687 (F.B.).

## (10) Transfer of undertenure endorsed on potta—Admissibility in evidence.

Where the transfer of an under-tenure is effected by an endorsement on the back of the tenant's potta, the endorsement is not admissible in evidence, unless it be stamped as though it were a separate deed. 3 B.L.R. App. 80.

## (11) Document stamped after execution—Admissibility—Suit based on unstamped document—Evidence.

A document is receivable in evidence on being duly stamped and as bearing the stamp required by the law for the purpose of the trial in which the document is tendered in evidence, and it is no business of the Court to inquire at what time the stamp was affixed or whether the provision of the Stamp Law was duly observed. That is a matter which is connected with the law as to penalties. [Appl., 9 C.L.R. 272.] If a document is not receivable in evidence as not being duly stamped, the plaintiff might recover on such part of the case as he could make out by other evidence. 24 W. R. 198.

6.—“Instrument chargeable with a duty of one anna only.....promissory note, etc.”

(1) Proviso (a)—Duty of Court.

- (a) The Judge must feel doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to this section. 131 P.L.R. 1206 (F.B.). R
- (b) Proviso (a) to S. 35 is applicable to documents compulsorily registrable. An improper registration of a document by the Registrar does not affect the validity of a document. 29 C.L.J. 305=23 C.W.N. 534=57 Ind. Cas. 88. S

(2) On payment of stamp and penalty instrument effective.

The proviso (2) is of equal ambit with the body of the section, and just as an instrument cannot be acted on, that is to say, nothing can be recovered under it, unless it has a proper stamp, so the proviso provides that if there is not a proper stamp it may be put on afterwards on payment of a penalty and the instrument then becomes effective. A.I.R. (1924) P.C. 221=47 M.L.J. 300=5 P.L.T. 570=29 C.W.N. 296=4 P. 34 (P.C.). T

(3) Unstamped memorandum of account.

- (a) In the case of an —signed by defendant, if the account is inadmissible in evidence on the ground of want of stamp, the suit will have to be dismissed, no other evidence being admissible. 31 A.W.N. 109; 19 A.W.N. 210. U
- (b) An account signed by the party but not duly stamped showing the balance up to date, and containing a promise to pay interest upon the consolidated balance, cannot be received as evidence in support of a claim to interest on that balance, but, as a *samadaskat*, or simple admission of the balance then due, it is receivable although not stamped. 1 B.H.C.R. 47 [R., 22 B. 513; 25 B. 616=3 Bom. L.R. 213.] Y

(4) Settlement of accounts between partners—Promissory note for the balance not duly stamped.

The plaintiff and defendant who were partners settled accounts in 1909 and a sum of money was found due to the plaintiff. A greater portion of the sum having been paid at the time a promissory note was executed for the balance, which was not duly stamped. The plaintiff brought a suit to recover the sum of money due to him upon the original cause of action and also set up an oral agreement to pay the sum to him. *Held*, that the suit is maintainable upon the original cause of action independent of the invalid promissory note. The previous settlement and the payment of a certain sum of money in pursuance of that settlement can be used for inferring an agreement to pay the balance and the promissory note is simply evidence of that agreement to pay. 15 M.L.T. 243=23 Ind. Cas. 85 (21 M.L.J. 462, *Dist.*; 26 M.L.J. 19, R.) W

(5) Unstamped acknowledgment—Inadmissibility—Limitation.

An acknowledgment not stamped as required by Art. 1 of Sch. I of Stamp Act is inadmissible in evidence and will not avail to extend the period of limitation. 1921 Pat. 304. See, also, 18 B. 614; 21 B. 201 (F.B.); 21 A.L.J. 268=71 Ind. Cas. 1027=45 A. 374=9 O. & A.L.R. 404=A.I.R. (1923) All. 297; 50 Ind. Cas. 781. X

(6) Acknowledgment amounting to promissory note.

A document, which though, for all outward appearance, an acknowledgment is in reality a promissory note, payable otherwise than on demand, cannot be admitted in evidence under this section. 8 C. 645=7 C.L.R. 88. Y

(7) Agreement to supply fish in consideration of advance, if one for sale of goods—Unity of consideration—Jurisdiction of Court to admit the document.

Where some villagers entered into an agreement to supply fish in consideration of an advance paid and the questions to be decided were, (1) whether the agreement was one relating to the sale of goods exclusively, (2) whether there was unity of consideration and (3) as to its admission by the Court.

6.—“Instrument chargeable with a duty of one anna only.....promissory note, etc.”—(Continued).

*Held* (1) that it was not such an agreement, (2) that it was not an agreement relating to several distinct matters within the meaning of Art. 5 of the Stamp Act, and (3) that the Court has jurisdiction to admit the document on payment of the duty and penalty. 19 M.L.J. 35=5 M.L.T. 135 =2 Ind. Cas. 481. Z

(8) **Hundi.**

(a) Where a Hundi was inadmissible in evidence for want of a stamp, *held*, that, on proof of payment of the original consideration for the Hundi, plaintiff could recover the balance of the money due though he could not put the Hundi itself in evidence. 4 P.R. 1881; 24 B. 360=2 Bom. L.R. 25. See 45 C. 538=21 C.W.N. 1043=41 Ind. Cas. 503. A

(b) Suit based on a Hundi inadmissible in evidence as not duly stamped might be continued as on a cause of action, supporting the relief prayed for in the suit, complete in itself and anterior to, and independent of, the Hundi and for which the Hundi was given as a collateral security. 73 P.R. 1886 [R., 82 P.R. 1891; 42 P.R. 1895]. B.

(9) **Shahjog Hundi—Bond—Admissibility in evidence.**

A Shahjog hundi is only payable to the respectable holders and is not equivalent to a hundi payable to the bearer. It is not a bill of exchange nor a promissory note, but a bond within the meaning of the Stamp Act and is admissible in evidence under S. 35 (a) on fulfilment of the conditions mentioned therein. 22 C.L.J. 209=19 C.W.N. 1326=33 Ind. Cas. 250 (26 A. 493; 29 B. 82; 22 C.L.J. 22, F.). C.

(10) **Shahjog Hindu—Payable after a year—Stamp as on a bond—Admissibility in evidence on payment of penalty.**

The holder of a Shahjog Hundi attested by a witness has the right to treat it as an attested promissory note. The document therefore comes under S. 6 of the Stamp Act and is chargeable with the higher of two duties mentioned in the schedule. If such a hundi be drawn for a period of more than a year, the stamp duty payable is similar to that of a bond. The Shahjog hundi can be sued either as a promissory note or as a bond containing an obligation to pay, attested by one witness and not being payable to order or to bearer. It can be admitted in evidence subject to the payment of penalties under S. 35 of the Stamp Act. 22 C.L.J. 22=33 Ind. Cas. 247. D

(11) **Hundi—Stamp not cancelled—Document indexed but not admitted in evidence.**

Where a document has been marked as an exhibit without any note on it to the effect that it has been admitted in evidence, and there is nothing to show that its treatment as evidence in the case was otherwise than tentative; *Held*, that objections could be raised as to its admissibility at any later stage of the suit, on the ground that it was not properly stamped. A hundi, the stamp on which was not cancelled at the time of its execution, is not admissible in evidence. 169 P.L.R. 1912=272 P.W.R. 1912=16 Ind. Cas. 834. E

(12) **Loan and promissory note, parts of the same transaction—Yarthamanam—Construction.**

Where a loan and a promissory note are parts of the same transaction, action is not maintainable for the amount advanced apart from the promissory note and where the promissory note is inadmissible for want of proper stamp the lender has no remedy. Defendant gave a *varthamanam* or letter to the plaintiff which ran in these terms:—“Amount of cash borrowed of you by me Rs. 350. I shall, in 2 weeks’ time, returning the sum of Rs. 350 with interest thereof at the rate of one rupee per cent. per mensem, get back this letter.” *Held* that it was a promissory note and not merely an offer to borrow or an acknowledgment of indebtedness and had to be stamped accordingly. 26 M.L.J. 19=14 M.L.T. 520=(1914) M.W.N. 58=21 Ind. Cas. 864. See 9 M.L.T. 281=10 Ind. Cas. 669. F



6.—“Instrument chargeable with a duty of one anna only... promissory note, etc.”—(Continued).

(13) Pro-note unstamped—Suit on original consideration.

The existence of an unstamped promissory note would not debar the holder thereof to sue on his original consideration, if any, or to adduce evidence of oral acknowledgment of the debt, if there was such an acknowledgment. 4 A. 135. See 17 C.L.J. 399=19 Ind. Cas. 840. G

(14) Cause of action independent of pro-note.

(a) When a cause of action for money is once complete, in itself, for goods sold or money lent or for any other claim, and the debtor then gives a bill or note to the creditor for payment at a future date, the creditor may sue on the original consideration, independently of the note or bill even if the latter were inadmissible in evidence for want of stamp or other similar cause. But, if the original cause of action is the bill or note itself, no suit can be maintained independent of the bill or note, and, so, if the bill or note is inadmissible on the ground of its being unstamped or insufficiently stamped, the suit will fail. 7 O. 256; 5 M. 166 and 7 M. 112; 42 P.R. 1895; 61 P.R. 1888; 92 P.R. 1898. H

(b) Where, in the case of an insufficiently stamped *hatchitta* amounting to a promissory note, the defendant admitted the loan but pleaded payment, *held*, the plaintiff had a cause of action, whereupon he might maintain a suit independently of the note. 23 C. 851 (*explaining*, 7 O. 256 and *following* 3 C. 314). I

(15) Suit on original consideration—Document evidencing loan and containing terms of the payment—Inadmissibility in evidence.

Stamp Act is a fiscal enactment, the primary object of which is to prevent evasion of the revenue. This object is attained by excluding document from evidence. If the document embodying the terms of the loan and its repayment is inadmissible, the lender may fall back and sue upon the loan itself and prove it by either evidence. The basis of the action is not the document but the doctrine and equity that a person who has received a sum of money from another for a consideration which has wholly failed should return the money to the payer. It is immaterial that inadmissible document was simultaneously with the loan. 65 Ind. Cas. 37. J

(16) Original consideration—Suit on money lent—Hundi inadmissible in evidence.

Even if the document embodying the terms of the repayment is inadmissible, where the loan can be distinguished from the collateral security such as a hundi given for it, the lender may fall back and sue upon the loan itself. The lender is deprived only of the advantages contained in the inadmissible document and not also the amount of the actual loan. 15 S.L.R. 135. K

(16-a) Promissory note bearing one anna stamp.

(a) In the case of a — but liable to a stamp duty of *as. 12*, *held* that the document was one on which no penalty or deficiency of duty could have been received when it was offered in evidence. 7 N.W.F.H.C. 124. [R., 3 A. 581 (F.B.).] L

(b) Where a promissory note, which ought to have been engrossed on a two annas stamp, bore only an one anna stamp, it was *held* that it was not receivable in evidence upon payment of penalty. 7 M.H.C. 361. M

(17) Suit on an unstamped pro-note—Admission of liability by defendant.

(a) In a suit based on an unstamped promissory note and not on the original consideration which gave rise to it, no decree should be passed even where the defendant admits liability. 7 Ind. Cas. 320=8 M.L.T. 251 (18 B. 369; 20 M. 886; 17 M.L.J. 308, *F.*; 29 M. 111; 15 M.L.J. 484, *D.*). N

(b) When a suit is brought upon an unstamped promissory note as the original cause of action, the admission of its contents by the defendant, in his written statement, cannot be availed of by the plaintiff, because the document itself is inadmissible in evidence for want of stamp—*Per Jardine, J.*, in 12 B. 443. N-1

6.—“Instrument chargeable with a duty of one anna only.....promissory note, etc.”—(Continued),

- (c) No secondary evidence was admissible, because the original, which was forthcoming, was inadmissible for want of stamp and the suit was liable to dismissal because the plaintiff did not offer to prove the advance of the original consideration independently of the admission contained in the written statement—*Per Birdwood, J.*, in 12 B. 443. O
- (d) But, where there is an admission of an independent loan, the holder of a *hundi*, which is inadmissible in evidence for want of stamp, may sue upon that consideration, though he cannot use the *hundi* or note in support of his suit. 24 B. 360. F
- (e) The statement of a party defendant to a suit is admissible original evidence against himself to prove the contents of a written instrument and the plaintiff might, therefore, so far as regards proof of the terms of such instrument, recover as upon such admission without payment of the stamp duty and penalty. 3 M.H.C.R. 158. Q
- (f) When a loan is made by plaintiff to defendant on certain settled terms, and, in consideration of that loan, the defendant contracts by a promissory note in those terms, to pay it with interest at a certain rate, there is no cause of action as “for money lent,” or otherwise than upon the note, and, if for want of a stamp, the note is not receivable in evidence, the plaintiff’s claim must fail. 10 M. 94. R

(18) Suit on promissory note not stamped—Evidence.

An unstamped promissory note payable on demand is inadmissible as evidence under cl. 25, S. 3, Act XVIII of 1869. Plaintiff recovering on an unstamped promissory note must recover on the contract actually made, and not on any implied contract. *Quære*:—Does not S. 18, Act XVIII of 1869, prevent the contention that a defendant’s written statement and deposition may contain such an admission as renders it unnecessary for the plaintiff to put the written contract in evidence? 21 W.R. 1 [F., 12 B. 443; R., 7 C. 256; 18 B. 369; U.B.R. (1907), 3rd Qr., Evidence, 5; D., 3 C. 314 = 2 C.L.R. 412 (N); 24 B. 360]. S

(19) Suit on an unstamped promissory note—Construction of the word ‘than’  
तथा.

On the construction of a document, the word ‘than’ (तथा) meant “you” and the document was a promissory note. Where the loan and the execution of the promissory note were contemporaneous and constituted one transaction, a suit based on the original consideration is not maintainable. 9 M.L.T. 281 = 10 Ind. Cas. 669 (10 M. 94, R. & F.). T

(20) Stamp uncanceled.

- (a) A promissory note bearing adhesive stamp but uncanceled is under any circumstances inadmissible in evidence. See 2 L.E.R. 103 noted under S. 36, *infra*. U
- (b) Where the stamps on a *hundi* were not properly cancelled as required by S. 12 of the Stamp Act, *held* that the *hundi* is not admissible in evidence. 18 P.R. 1912 = 65 P.W.R. 1912 = 14 Ind. Cas. 512 = 75 P.L.R. 1912. Y

(21) Documents not pro-notes within the proviso.

- (a) See 4 M. 296 and 27 M. 1 noted under S. 2 (22), *supra*.
- (b) The insertion of an undertaking to pay interest annually is repugnant to the essential character of a commercial document negotiable by mere endorsement, and an instrument containing such a term is not a promissory note falling under the absolute prohibition of S. 35. S. 35 renders a promissory note improperly stamped inadmissible for any purpose whatsoever. 5 L.L.J. 148 = A.I.R. (1923) Lah. 29. W
- (c) A contract was entered into between the parties for the supply of bricks to be supplied from time to time. Each time a supply was made, a printed form, evidently used for various purposes, was sent by the plaintiff to be signed by

6.—“Instrument chargeable with a duty of one anna only.....promissory note, etc.”—(Continued).

the defendant obviously as a receipt for the bricks. The form showed the quantity of bricks supplied, rate to be charged and the sum chargeable. The signature of the defendant was immediately under the total of the bricks supplied and lower down in the document the words “*gimai indultalab ada kardunga*” were written in Persian. The document was unstamped. *Held*, that the document was not a promissory note, but a mere receipt for the bricks and that even in case of inadmissibility of the document for want of stamp, the plaintiff was entitled to prove the supply of bricks and the amount due in payment thereof *altunde*. In interpreting documents of this kind which clearly are not intended to be promissory notes, the intention of the parties and all particulars connected with the transaction must be considered. 103 P.W.R. 1913=174 P.L.R. 1913=19 Ind. Cas. 436. X

- (d) The defendants passed to the plaintiff on an eight-annas stamp paper an instrument which ran as follows:—“We have this day received from you Rs. 25,000 in cash. Interest thereon has been fixed at the rate of 12 annas per cent. per mensem. The said interest is to be paid every month as it accrued due, and the period fixed in respect of the above written amount is three years.” The plaintiff having sued on the instrument, the defendants contended that it could not be admitted in evidence for insufficiency of stamp. *Held* that the instrument was not a promissory note nor did it fall under the absolute prohibition of S. 35. 18 Bom. L.R. 124=33 Ind. Cas. 366. Y

(22) Unstamped award—Admissibility in evidence on payment of penalty.

Where an award is made by certain arbitrators upon a reference made by the parties without the intervention of the Court, but the award is not stamped, this defect can be removed by levying a penalty under the provisions of the Stamp Act and the award can then be admitted in evidence for purposes of the proceedings under the second Schedule of the Civ. Pro. Code. 66 P.R. 1913=181 P.W.R. 1913=290 P.L.R. 1913=20 Ind. Cas. 491. See 2 U.B.R. (1916) 146=11 Bur. L.T. 77=39 Ind. Cas. 382. Z

(23) Document reciting liability to pay interest as it accrues due—Admission in evidence.

A document reciting liability to pay interest as it accrues is not a promissory note and is admissible in evidence upon payment of penalty and deficiency of stamp while a pro-note cannot at all be admitted into evidence when not duly stamped. 52 P.L.R. 1922=68 Ind. Cas. 461. A

(24) Insufficiently stamped document—Powers of appellate Court—Admission in evidence on payment of the deficiency in duty and penalty.

The appellate Court can admit in evidence a document which is not sufficiently stamped, on payment of the deficiency in duty and penalty. 55 Ind. Cas. 923=21 Cr. L.J. 447=2 U.P. L.R. (B.R.) 29. B

(25) Post dated cheque, admissibility of.

Where, in the case of a — bearing a stamp of one anna, it was contended that the cheque was really a bill of exchange payable so many days after date and was, consequently, inadmissible in evidence, *held*, in a suit to recover the amount of the cheque on its being dishonoured, that it was admissible in evidence. 16 C. 432. C

(26) Bond chargeable with Rs. 2-8-0—Stamped duly—One anna stamp alone affixed—Insufficiently stamped document.

For revenue purposes a document should not be considered as wholly unstamped when as a matter of fact it bears a stamp, merely because that stamp happens to be of the wrong kind. When a document is stamped though wrongly and inadequately, it is insufficiently stamped but not unstamped. When a document was a bond which was liable to a stamp duty of Rs. 2-8-0 and bore only one anna stamp affixed to it, there is a deficiency of stamp of Rs. 2-7-0 and ten times the deficiency is payable as penalty. 11 L.B.R. 316=67 Ind. Cas. 640. D

6.—“*Instrument chargeable with a duty of one anna only.....promissory note, etc.*”—(Concluded).

(27) Notice of allotment, unstamped—Admissibility in evidence.

It is clear from *sub-S. 3* of *S. 34* of the Stamp Act (I of 1879) that a notice of allotment which is not duly stamped is admissible in evidence, 4 C.W.N. 369 (26 C. 955, F.). E

7.—“*Penalty of one rupee.*”

(1) Stamp duty of one anna need not be recovered.

In the case of admission of unstamped receipts in evidence, the stamp-duty of one anna need not be recovered in addition to the penalty of one rupee provided for in this proviso. Nor is it necessary for the Court to make the endorsement required by *S. 42*. 24 A. 374=22 A.W.N. 72. F

(2) Unstamped receipt—Prosecution—No intention to evade the stamp-law—Conviction bad.

Where a person had given an unstamped receipt and it is not shown that he intended to evade the stamp-law and that he had a criminal intent, a prosecution is not legal. The Stamp Act itself provides in connection with receipts payment of the stamp-duty and penalty and not a prosecution under the provisions of the Act. 64 Ind. Cas 286=1921 Pat. 173=2 Pat L.T. 623. G

8.—“*Correspondence.*”

(1) Stamping of correspondence.

Where correspondence took place between a landlord and his tenant regarding the lease of certain premises and the correspondence contained a complete agreement independently of a draft and the engrossed lease, *held*, the engrossed lease could not be treated as part of the correspondence and that, consequently, the correspondence must be stamped and penalty paid before the same could be admitted in evidence. 17 C. 548. See 38 C.L.J. 177; 12 B.H.C.R. 208. H

(2) Agreement effected by correspondence.

Under Act I of 1879, which contained no provision corresponding to the present proviso (c), it was *held* that it was not the intention of the legislature to require that one or more of a series of letters, which may be evidence of a contract, should be liable to stamp-duty. 18 M. 255. I

(Note.)—The present proviso (c) to *S. 35* declares the necessity and sufficiency of at least one of the letters forming part of such an agreement bearing the requisite stamp. *This case is overruled by the present proviso.*

Old Law.

(1) Documents without proper stamp—Admissibility as against person producing same.

Documents not bearing proper stamp under Act X of 1862 are not admissible in evidence to show the terms of the deed as against the party producing the same. 3 Agra 103. J

(2) Document liable to stamp duty, unstamped—Objection for first time taken in appeal, maintainability of.

The Stamp Act (X of 1862), prohibits an unstamped document from being received in evidence or acted upon in any civil proceeding in a Court of Justice, except on payment of the proper amount of stamp duty and penalty which every Civil Court is by *S. 17*, cl. 1, empowered to ascertain and receive. It is imperative on the High Court hearing the suit on appeal to give effect to this provision, though the objection be pointed out for the first time on the hearing of the appeal. 3 M.H.C. 297 [R., 5 M.H.C. 391.] K

## Old Law—(Concluded).

## (3) Bond stamped subsequent to suit.

A—was valid under the Stamp Acts XXXVI of 1860 and X of 1862, provided it were properly stamped when produced at the first hearing of the suit and when the Court was asked to receive it in evidence. 3 B.H.C.A.C. 92. L

## (4) Unstamped document—Court's power.

Held, a Judge had no power to admit an unstamped document, except under the conditions prescribed by Act XVIII of 1869, even where the document happened to be one executed before the passing of that Act. 21 W.R. 446 = 13 B.L.R. App. 33 [F., 16 M. 283; Rel. on, 4 Bom. L.R. 912; Appl., 7 Ind. Cas. 256.] M

## (5) Insufficiently stamped Hundia.

—could not be received in evidence even on payment of penalty under S. 20 of Act XVIII of 1869. 4 C. 259; 5 M.H.C. 391. N

## (6) Act XVIII of 1869, S. 28.

The Court had no power to admit in evidence an unstamped promissory note upon the payment of the stamp-duty and any penalty laid down in S. 20 of the Act. 7 B.H.C.O.C. 180. O

## (7) Finality of decision of Court.

The decision of a Court was final, under S. 17, cl. 1 of Act X of 1862, as to what was the proper amount of stamp the document ought to have borne and not as to whether the Court ought or ought not to receive the document in evidence. 3 B.H.C.O.C. 153. P

## (8) Endorsement of a Pattah.

An—for a money consideration not exceeding Rs. 100, held, to be a transfer of the land covered by the *pattah* and required a stamp of one rupee under cl. 23 of Sch. A of Act X of 1862. 11 W.R. 365. Q

**36.** Where an instrument has been admitted in evidence<sup>1</sup>, such admission shall not, except as provided in section 61, be called in question at any stage<sup>2</sup> of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of instrument where not to be questioned.

## NOTES.

## Old Acts:—

Act I of 1879 :—S. 34, proviso 3.

No corresponding provision in the earlier Acts.

## General.

**Scope—Document executed in 1862 sufficiently stamped—Admissibility in evidence.**

S. 36 is applicable to documents of the years when Act XXXVI of 1860 was in force, as it is to insufficiently stamped documents under the present Act. 32 C.L.J. 75 = 59 Ind. Cas. 3. R

## 1.—“Admitted in evidence.”

(1) Stamp on pro-note not duly cancelled—Pro-note admitted in evidence in *ex parte* trial.

(a) S. 36 really lays down a rule preventing only the exclusion of what already is in evidence in the proceeding. But if certain proceedings terminated

## 1.—“Admitted in evidence”—(Concluded).

and other proceedings re-commence where the document would not be regarded as being in evidence already, the section has no application. It is not possible to lay down a general rule as to what mode of cancellation would be effective. 12 M.L.T. 122=23 M.L.J. 273=16 Ind. Cas. 96. S

- (b) a promissory note bearing an adhesive stamp, which has not been cancelled as required by S. 12, is to be deemed to be unstamped and so inadmissible in evidence under S. 35; and, if a Court admits and acts upon such an unstamped document, which is under any circumstances inadmissible in evidence, this section does not prevent a superior Court from dealing with the illegality. 2 L.B.R. 103; U.B.R. (1892—1896), Vol. II, 633. T
- (2) **Admissibility in evidence of copy of a sulenamah of 1867 the only evidence of a mortgage—Copy bearing stamp of Re. 1—Presumption regarding stamp on original.**

In a suit for redemption of a mortgage made in 1857, the only evidence tendered to prove the transaction was a certified copy of a sulenamah. That copy bore a stamp of Re. 1, and the record of the suit in which the original sulenamah was filed having been destroyed, it did not appear what stamp the original bore. The sulenamah was signed by the pleaders and filed in Court. The Court of first instance admitted the copy in evidence but the lower appellate Court was of opinion that the original sulenamah ought to have been stamped as a mortgage with a ten rupee stamp, but it could not be presumed to have been so stamped, and the copy was therefore inadmissible in evidence. *Held*, that the copy having been admitted in evidence by the Court of first instance, no further question as to its admissibility could be raised in appeal, on the ground that it was not duly stamped. 11 A.L.J. 506=19 Ind. Cas. 445. *Confirmed in* 38 A. 494=43 I.A. 264=20 M.L.T. 447=24 C.L.J. 504=1916 (2) M.W.N. 548=5 L.W. 153=18 Bom. L.R. 904=14 A.L.J. 1099=1 Pat. L.W. 90=39 Ind. Cas. 11 (P.C.). See, *hereon*, A.W.N. (1884) 318; A.W.N. (1887) 94. U

- (3) “Admitted in evidence”, meaning of—“At any stage of suit.”

- (a) The expression “admitted in evidence” used under this section is not to be taken as covering case where a document was tentatively admitted upon a decision as to its admissibility or otherwise, but is restricted to the case where a document is admitted after judicial consideration of circumstances relating to admissibility, and the words “at any stage of the suit” refer to a stage subsequent to a judicial determination as to the admissibility of a document. 50 Ind. Cas. 781. The term “acting upon” is wider than the word “admission.” 8 Bur. L.T. 290=33 Ind. Cas. 595. Y
- (b) The expression “admitted in evidence” in S. 36 means the act of letting the document in as part of the evidence, but it must be letting in as a result of judicial determination of the question whether it can be admitted in evidence or not for want of stamp. In other words, the Court admitting it must have applied its mind consciously to the question whether the document is admissible or not. 12 Bom. L.R. 466=6 Ind. Cas. 908; 169 P.L.R. 1912=272 P.W.R. 1912; 50 Ind. Cas. 781. W

## 2.—“Shall not.....be called in question at any stage of the same suit.”

- (1) **Meaning of the words, “at any stage,” etc.**

The term ‘any stage’ includes an appeal; and, so, where a document, though not properly stamped, has been admitted in evidence in the lower Court, the appellate Court cannot question its admissibility. 18 B. 797. X

- (2) **Document admitted and acted on by arbitrators.**

If documents, which were not duly stamped, were admitted and acted upon by the arbitrators, S. 36 of the Stamp Act would prevent such admission from being called in question at any stage of the same proceeding, except under S. 61 of the Act, and an application to file the award of the arbitrators would be a part of the ‘same proceeding’. 39 C. 669=16 Ind. Cas. 153. See 28 C.W.N. 871=A.I.R. (1924) Cal. 794. Y

2.—“*Shall not.....be called in question at any stage of the same suit*”  
—(Continued).

(3) Unstamped document received in evidence—Appellate Court, power of.

- (a) On an unstamped document being admitted by the first Court in evidence, the Appellate Court cannot reject it at a subsequent stage of the suit. 19 C.L.J. 87=18 C.W.N. 697=22 C.W.N. 858; 3 B.L.R.A.C. 126; 5 B.L.R. App. 10; 8 M.L.J. 66; 12 M.L.J. 351; 5 M. 220; 139 P.R. 1890; 4 Ind. Cas. 1086; 71 Ind. Cas. 475=A.I.R. (1923) Pat. 404. **Z**
- (b) The same is the practice in connection with insufficiently stamped document admitted in the trial Court. 29 C.L.J. 305=23 C.W.N. 534=51 Ind. Cas. 88; 26 C. 955; 12 C. 64; 25 Bom. L.R. 450=A.I.R. (1923) Bom. 412=73 Ind. Cas. 125; 18 B. 737; 73 Ind. Cas. 65=A.I.R. (1923) Nag. 284; 4 A. W.N. 318; 2 P.R. 1891; U.B.R. (1897—1901), Vol. II, 559. **A**
- (c) Such admission cannot be questioned in a Court of appeal. 71 Ind. Cas. 42=16 P.W.R. 1923=A.I.R. (1923) Lah. 43; 3 C. 787; 3 C.W.N. 781, 16 W.R. 6; 18 C.W.N. 697=22 Ind. Cas. 958. **A-1**
- (d) This applies to Letters Patent appeals also. 73 Ind. Cas. 799=A.I.R. (1923) Lah. 657. **B**
- (e) It cannot be challenged by a separate suit. See 27 C.W.N. 513; 28 C.W.N. 871. **C**
- (f) Where a document has been admitted in evidence as duly stamped by the Court of first instance, it is not competent for the appellate Court to alter the lower Court's decision as to such admission but, so far as is provided for by S. 61, it can consider the question of the sufficiency of the stamp. 8 M.L.J. 66; 24 B. 360=2 Bom. L.R. 25; 2 C.L.R. 439; 16 W.R. 6; 5 B. 621; 5 M. 220; 8 M. 564; 73 Ind. Cas. 125; 18 B. 757. **C-1**
- (g) Though a promissory note bearing a stamp not properly cancelled is inadmissible in evidence, yet, when the Court of first instance had admitted it, the Appellate Court cannot question its admissibility in appeal. U.B.R. (1909), 4th Qc., Stamp, 3=4 Ind. Cas. 1036. **D**

(4) Rejection of admitted document.

- (a) Where an unstamped promissory note was treated as a bond and was admitted in evidence on payment of penalty by a Court, *held*, neither the same Court, at a subsequent stage of the suit, nor the appellate Court, can reject the document on the ground of its being a promissory note. 13 B. 449 (F.B.). Compare D.C.R. Part V (11). See 71 Ind. Cas. 475=A.I.R. (1923) Pat. 404. **E**
- (b) But if the Appellate Court, without acting under S. 35 and S. 61 *infra*, recovers duty and penalty itself it is *ultra vires*. A.I.R. (1923) Oudh 110. **F**
- (c) The proper procedure will be to proceed under Ss. 35 and 61 of the Act. 12 C. 64; 27 C.W.N. 513; 13 B. 593; 8 M. 564; 31 M.L.J. 234; 4 M. 137; 7 N.W.P. 124. **G**

(5) Admission of rejected document.

- (a) An instrument which is not duly stamped and which has been rejected, as such, cannot be admitted on appeal on payment of stamp and penalty, when there is no evidence that the duty and penalty were tendered and refused in the lower Court. 20 B. 791; 4 C. 212; B.P.J. 1873, p. 108; 10 B.H.C.A.C. 441; 7 W.R. 439; 1 L.B.R. 84. **H**
- (b) Where, in respect of a document, which the Courts below have held to be insufficiently stamped, there has been no tender in the lower Courts, by the appellant, of duty and penalty therefor, the High Court will not allow him to so tender the same in the second appeal. 10 Bom. H.C.A.C.J. 441. **I**
- (c) An order of a Court levying penalty under the Stamp Act, the case being afterwards proceeded with, is not appealable. Where the party, however, refused to pay the penalty as directed and the instrument was erroneously rejected by the lower Court, such rejection would form a good ground of appeal based on the error of law committed by the lower Court in having refused to receive the document in evidence. 5 C. 311. **J**

2.—“*Shall not.....be called in question at any stage of the same suit*”  
—(Concluded).

- (d) The appellate Court can receive a document inadmissible on account of insufficiency of stamp, on payment of stamp duty and penalty. 55 Ind. Cas. 928. K

(6) Reversal of judgment for want of stamp.

- (a) An appellate Court has no power to reverse the judgment of a Court of first instance merely on the ground that the document on which the suit was based did not bear a stamp at all. 5 B.L.R. App. 10; 3 B.L.R.A.C. 235 = 12 W.R. 47; 11 W.R. 520; 8 M. 564; 2 M.H.C.R. 321. But see 2 L.B. R. 108. L
- (b) The legislature forbade the Courts acting upon an unstamped document when it is not produced before it, but it did not forbid the giving of a decree upon an unstamped document which had been wrongly admitted in evidence, because, the duty and penalty could be levied by the Collector. The provisions of S. 56 are evidently intended to prevent injustice and it would be obviously unjust for an appellate Court to dismiss a suit on the ground that a document which the first Court had admitted in evidence was unstamped or insufficiently stamped, seeing that, if the objection had been taken in the first Court, the document could have been properly admitted in evidence on payment of a stamp duty and penalty. 5 Bur. L.T. 290 = 38 Ind. Cas. 595. M

(7) Instrument, insufficiently stamped—Admissibility of instrument when not to be questioned—Acknowledgment evidencing a fresh contract.

*Held*, that an instrument once accepted, rightly or wrongly, in evidence cannot, by reason of the special provisions of S. 56 of the Stamp Act, be challenged on account of deficiency of stamp duty. Where an acknowledgment contained the words, “and shall be paid,” *held*, that these words evidenced a fresh contract furnishing an independent cause of action. 11 O.C. 152 (3 O.C. 195, D.) See, also, 7 Ind. Cas. 582; 2 P.R. 1891; 139 F.R. 1890; 108 P.R. 1903. N

**37.** The Governor General in Council may make rules providing that, where an instrument bears

Admission of im-  
properly stamped  
instruments.

a stamp <sup>1</sup> of sufficient amount but of im-  
proper description <sup>2</sup>, it may, on payment  
of the duty with which the same is  
chargeable, be certified to be duly stamped, and any instru-  
ment so certified <sup>3</sup> shall then be deemed to have been duly  
stamped as from the date of its execution.

**NOTES.**

**Old Acts :—**

*No corresponding provision in any of the prior Acts.*

**1.—“Stamp.”**

**Phrase limited to stamps specified in Act.**

The words ‘a stamp of improper description’ do not cover a description of stamp appropriate for purposes outside the Stamp Act altogether (e.g., Postage Stamps, Telegraph Stamps and Court-fee Stamp, etc.), but must be confined to a stamp specified in this Act. 25 A. 213 (F.B.) = A.W.N. (1901) 54. O



## 2.—“Of improper description,”

## (1) Stamp of sufficient amount but of improper description—Validation by the Collector.

Save on a reference under S. 57 *infra* by the Chief Controlling Revenue Authority, a Civil Court has no power to review the correctness of a Collector's action in giving a certificate under S. 37 of the Act. Any stamp of the British Indian Government of the prescribed value but not of the prescribed description, is “a stamp of sufficient amount but of improper description” within the meaning of rule 15 of the rules under the Stamp Act and can, as such, be validated by the Collector. 7 N.L.R. 26=10 Ind. Cas. 702 (In this case the promissory note bore four quarter anna stamps). See, also, 47 Ind. Cas. 640. P

## (2) Pro-note on impressed stamp.

(a) Where a promissory note requiring an adhesive stamp of one anna only was written on paper bearing an impressed stamp for a larger amount and stamped ‘hundi,’ it was *held* that it was not inadmissible in evidence on that ground. 5 A.W.N. 317. Q

(b) Promissory notes written on impressed sheets of the proper value, though bearing the word ‘Hundi,’ *held* to be ‘duly stamped.’ 21 P.R. 1891. R

## (3) Court fees stamp for non-judicial stamp for partition decree.

Using of—is using stamp of improper description. 14 C.W.N. 1101=12 C.L.J. 324=7 Ind. Cas. 94. S

## 3.—“Certified to be duly stamped.”

Promissory note stamped with 3 quarter anna stamps — Endorsement that penalty of Re. 1 was levied—Invalidity of the promissory note.

(a) An endorsement that a penalty of one rupee had been levied is not a certificate under S. 37 of the Act, whether or not a certificate could be granted where the promissory note was stamped with four quarter anna postage stamps. 52 Ind. Cas. 758. T

(b) A certificate by the Collector, under the section, that a document is duly stamped is binding on the Courts and is conclusive on the point. 7 A.W.N. 21. U

## Old Law.

## Act I of 1879.

Where a Hundi, which ought to have been written on one impressed stamp according to a rule under Act I of 1879 was written on two stamp-papers sewn together, it was *held* to be ‘not duly stamped.’ 73 P.R. 1886. Y

Now the new S. 37 of Act II of 1899 will govern the case.

**38.** (1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof,

Instruments impounded how dealt with<sup>1</sup>.

and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

### NOTES.

#### Old Acts :—

- Para. (1) above corresponds to { S. 35, para. 1 of Act I of 1879,  
S. 21 (b), (c) of Act XVIII of 1869,  
and S. 17 (2) of Act X of 1862.
- Para. (2) above corresponds to { S. 35, para. 2 of Act I of 1879,  
and Ss. 22 and 23 of Act XVIII of 1869.

#### *1.—“Instruments impounded how dealt with,”*

##### (1) Determination of stamp—Penalty.

The duty chargeable on an insufficiently stamped document must be decided with reference to the Act in force at the date of execution of the document and the penalty leviable is to be determined always in accordance with the provisions of the Act in force at the time of so determining. 7 P.R. 1885 (Rev.) W

##### (2) Unstamped document, admission of, on levy of duty and penalty—Production of original instrument necessary.

The requirement in S. 35 of Act I of 1879 that the officer admitting an instrument in evidence under S. 34 shall send to the Collector an authenticated copy of the instrument, and the provision in S. 39 that such officer shall certify by endorsement on the document that the proper duty and penalty have been levied, clearly show that a Court cannot admit, in evidence, an unstamped document, under S. 34, unless the original instrument is actually produced before it. In such a case, secondary evidence cannot be admitted by the Court to prove the contents of the document, the original instrument having been inadmissible, as not duly stamped. 18 A. 295 = A.W.N. (1896) 68. X

##### (3) Document impounded and forwarded to Collector.

—should be returned to the impounding officer. 25 M. 525. Y

##### (4) Certificate by Hd. Quarters Dy. Collector that documents are exempt from stamp duty—Reference by Revenue Board to High Court.

Held High Court had no jurisdiction to decide the question. 25 M. 752. Z

##### (5) Reference to Chief Court, when may be made—Powers of Court as to document not put in evidence—Adjudication by Collector binding on Courts.

The reference under S. 60 of the Act can only be made under the circumstances specified in it. The Judge must feel doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to S. 35. S. 60 does not deal with a case, where reference has been made to a Collector and his adjudication obtained.

Where a suit is dismissed without being called to hearing, no reference can be made as to a document produced in Court by the plaintiff with his plaint. A Court has no power to overhaul an account-book, produced in a case, for the purpose of putting in evidence an entry contained in it and take action under the Stamp Act in regard to entries not put in evidence. A Court acts without jurisdiction in calling upon a party to produce his account-book in Court and to impound the same, when there is no case before the Court.

*1.—“ Instruments impounded how dealt with ”—(Concluded).*

Under S. 40 (a) of the Stamp Act, the adjudication of the Collector as to the amount of duty chargeable on an instrument is final and cannot be questioned by Courts. The Chief Court declined to entertain the reference, submitted by the District Judge, as made in contravention of the provision of S. 60 of the Stamp Act. 131 P.L.R. 1906 (F.B.). A

**(6) Impounded instrument admissible in evidence on payment of penalty—Court bound to accept the instrument.**

When an instrument, not being one of the excepted instruments in sub-S. (a) of S. 25 of the Stamp Act, is tendered in Court, the Court is to accept it and shall admit it as evidence on payment of the duty; and the person tendering it is entitled to compel the Court to accept the instrument if the duty and penalty are paid. S. 25 of the Stamp Act does not prevent an instrument which is not absolutely rejected or which comes within the excepted ones, from being admitted on payment of penalty. 9 Bom. L.R. 122. B

**39.** (1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, <sup>[1]</sup> refund <sup>1</sup> any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

Collector's power to refund penalty paid under section 38, sub-section (1).

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

**Legislative Changes—Imperial.**

[1] The words “ upon application made to him in this behalf, or, if no application is made with the consent of the Chief Controlling Revenue-authority ” were repealed by Act IV of 1914.

**NOTES.**

**Old Acts :—**

*Act I of 1879 :—*S. 36.—Same as above except the italicized portion which is new.

*1.—“ May refund ”*

**Levy and refund of penalty.**

Even in the case of documents unstamped or insufficiently stamped prior to the passing of the present Act and at a time when the repealed Stamp Acts were in force, the penalty to be paid and the procedure to levy it and to obtain a refund thereof will be governed only by the provisions of the present Act. 5 M. 394. See, hereon, 25 M. 751. C

**40.** (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty of one anna <sup>[1]</sup> [or half an anna] only.

Collector's power to stamp instruments impounded.

or a bill of exchange or promissory note, he shall adopt the following procedure :—

- (a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement <sup>1</sup> thereon that it is duly stamped, or that it is not so chargeable, as the case may be :
- (b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty <sup>2</sup> or the amount required to make up the same, together with a penalty <sup>3</sup> of five rupees ; or, if he thinks fit <sup>[2]</sup> [an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees :

Provided <sup>4</sup> that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it <sup>5</sup> to the impounding officer.

### Legislative Changes—Imperial.

[1] The words " or half an anna " were inserted by Act V of 1906.

[2] The words " an amount not exceeding " were inserted by Act XV of 1904.

### Effect of changes made by Act XIII of 1924 (The Indian (Specified Instruments) Stamp Act) :—

3. (1) No exception or restriction in respect of promissory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.
- Application of certain provisions of Act II of 1899.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (1) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the proviso to section 35, or under sub-section (1) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

### Legislative Changes—Provincial.

**[For Bombay only].**—In sub-section (1) of section 40, before the words, "one anna", the words, "two annas" shall be inserted.  
—*Bom. Act II of 1922.*

**[For Madras only].**—In sub-section (1) of section 40, after the words "half an anna only", the following shall be inserted, namely:—  
"or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas."—*Mad. Act VI of 1922.*

### NOTES.

#### Old Acts :—

Sub-section (1) above corresponds to { S. 37 (a) and (b) and S. 37 last paragraph of Act I of 1879.  
S. 24 (a) and S. 28 of Act XVIII of 1869 and S. 15, cls. 1 and 2 and S. 22 of Act X of 1862.

#### The proviso to the above sub-section

corresponds to—S. 37, para. 4, proviso of Act I of 1879.

Sub-section (2) above corresponds to { S. 37, para. 5 of Act I of 1879 and S. 24 (d) of Act XVII of 1869.  
and sub-section (3) above corresponds to { S. 37, para. 2 of Act I of 1879 and S. 24 (a) para. 2 of Act XVIII of 1869.

### I.—"He shall certify by endorsement."

#### (1) Finality of certificate.

A certificate made by a Collector, under this clause, to the effect that a document is duly stamped or is not chargeable with duty, is not open to revision by the Chief Controlling Revenue-authority. 25 M. 752 (764) ; 40 A. 128 = 16 A.L.J. 49 = 47 Ind. Cas. 299 (F.B.). D

#### (2) Procedure.

The procedure laid down in this section must be strictly followed ; and, before a prosecution can be instituted, the Collector is, under S. 43, bound to form an opinion as to whether the offence was committed with the intention of evading the payment of duty. A conviction, without the Collector's having adopted this procedure, would be liable to be set aside as illegal. 8 C. 229 = 10 C.L.R. 365. D-1

## 1.—“He shall certify by endorsement”—(Concluded).

- (3) Certificate of Collector that document is duly stamped—Production of certificate after dismissal of suit and when appeal is pending—Order of remand.

In a suit by certain bankers to recover the principal and interest, on the basis of an instrument described as a sarkhat executed in their favour by the defendants the original Court found that the document was understamped and invalid, and therefore inadmissible in Court. The appellate Court dismissed the appeal solely on the ground that the document was improperly stamped. Subsequent to the order of dismissal, a certificate was given by the Collector, under S. 37 that the document upon which the suit was brought was duly stamped. The plaintiffs preferred a second appeal to the High Court. *Held*, that the lower appellate Court had come to no finding on the facts, that as the Collector had given the certificate since the dismissal of the appeal by the lower appellate Court, the certificate was binding upon the High Court, and that, consequently, the lower appellate Court must proceed to hear the appeal upon the merits, and to dispose of the issue in the light of all the legal evidence in the case, and that consequently the appeal should be allowed and the case remanded. A.W.N. (1887) 21. E

## 2.—“He shall require the payment of the proper duty.”

- (1) Duty and penalty recovered from person filing documents—Suit against Secretary of State, maintainability of.

Certain documents insufficiently stamped, were put in evidence by the representatives in interest of the executants. The Collector recovered from the persons filing them, the duty and penalty by sale of their property. *Held*, that the Collector's order was open to review by Revenue authorities, and no suit lay against the Secretary of State for refund of penalty, realised. *Held* further, that the persons, who wish a document to be admitted in evidence, are the persons from whom a Collector can realise the duty and penalty, and if it is due from a third person, they can bring a suit and recover it from him. 5 A.L.J. 262=A.W.N. (1908) 130=30 A. 271. F

- (2) Levy of duty and penalty.

In cases in which the omission to stamp at all or to stamp duly arises from negligence, inadvertence or ignorance of the provisions of the Stamp Law, it is the duty of the Collector to compel the payment of the duty. But when the stamp affixed to the document is, according to the valuation of the property set forth therein, correct, the Collector has no duty to perform under this section. 12 M. 231 at p. 233. G

- (3) Decision of Collector as to chargeability of instrument, not final—Duty of Civil Court under S. 33.

While the Indian Stamp Act makes the certificate of the Collector given under cl. (a) of S. 37 conclusive evidence, there is nothing in it which provides that his decision under cl. (b) shall be final or conclusive. If his decision is complied with and the duty and penalty paid, then under S. 39 the instrument will be admissible in evidence, but, where such decision has not been obeyed and the duty and the penalty not paid, a Civil Court before whom the instrument may come has the duty cast upon it, under S. 33, of examining the document and of determining for itself whether the instrument is duly stamped or not, and, if not, of taking the steps laid down in Ss. 33, 34, and 35, whatever decision it may come to being subject to revision under S. 50. 22 B. 632. [R., 9 Bom. L.R. 119]. H

*Note*—Such decision of the Collector is declared by S. 56 of the present Act to be subject to revision by the Chief Controlling Revenue authority.

- (4) Opportunity to be afforded to party.

Before a Collector exercises his discretion under Ss. 43 and 69 he must allow the party an opportunity of paying the penalty on requisition under this clause. 7 B. 82. I

2.—“ *He shall require the payment of the proper duty* ”—(Concluded).

(5) **Stamped**—Effect of Collector's certificate that document is properly stamped.

A subordinate Judge, finding that a document upon which the plaintiff's suit depended was not properly stamped, impounded the document and sent it to the Collector, meanwhile dismissing the plaintiff's suit. The Collector certified under S. 40, that the proper amount of duty and penalty had been realized. *Held*, that the document then became admissible in evidence and the Court should have taken it into consideration. A.W.N. (1907) 38 = 4 A.L.J. 205. J

3.—“ *Together with a penalty.* ”

**Determination of penalty.**

The duty chargeable on an insufficiently stamped document must be decided with reference to the Act in force at the date of the execution of the document but the penalty leviable is to be determined in all cases in accordance with the provisions of this clause. 5 M. 394. K

4.—“ *Provided that.....section.* ”

**Proviso.**

Where a conveyance for Rs. 100 was written on the face of a one rupee stamp paper and a release on the back of the paper, the first instrument should be considered to have been written, executed and stamped according to law. The second instrument can be validated on payment of the deficient Stamp duty and penalty under the Act. 11 M. 40 (F.B.). L

5.—“ *Shall.....return it.* ”

**Disposal of impounded document.**

Where certain documents had been impounded and forwarded to the Collector under S. 38 (2), *held* that the Collector should return them to the impounding officer under this sub-section and, when they have been so returned, the latter officer might dispose of them according to law. 25 M. 525 at p. 528. M

**41.** If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna [1] [or half an anna] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

Instruments unduly stamped by accident.

**Legislative Changes—Imperial.**

[1] The words “ or half an anna ” were inserted by Act V of 1906.

**Changes effected by Act XIII of 1924 (The Indian (Specified Instruments) Stamp Act):—**

3. (1) No exception or restriction in respect of promissory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

Application of certain provisions of Act II of 1899.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (1) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (1) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

**Legislative Changes—Provincial.**

**[For Bombay only].**—In section 41, before the words "one anna", the words, "*two annas*" shall be inserted.—*Bom. Act II of 1922.*

**[For Madras only].**—In section 41, after the words, "half an anna only", the following shall be inserted, namely:—

"or a mortgage of crop [article 34 (a) of Schedule I-A] chargeable under clause (aa) or (bb) of section 3 with a duty of two annas".—*Mad. Act VI of 1922.*

**NOTES.**

**Old Acts:—**

*Act I of 1879:—S. 38.*

*Act XVIII of 1869:—Ss. 24 (b) and 28.*

*Act X of 1862:—S. 15, cl. 1.*

**42.** (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon <sup>1</sup> that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Endorsement of instrument on which duty has been paid under section 35, 40 or 41.



(2) Every instrument so endorsed shall thereupon be admissible in evidence <sup>2</sup>, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered <sup>3</sup> on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it or as such person may direct :

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate ;

(b) nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.

#### NOTES.

##### Old Acts:—

In the Act of 1879, S. 39 was the corresponding section.

In the Act of 1869	{	Corresponding to the above sub-S. (1) were S. 20, para. 4 and S. 25, para. 1 and corresponding to sub-S. (2) were
		S. 20, para. 6, S. 21 (a) and (b), S. 24 (d) and S. 25, para. 2, and
In the Act of 1862	{	S. 17, cl. (2) and S. 16 corresponded to the above sub-Ss. (1) and (2) respectively.

#### 1.—“*Shall certify by endorsement thereon.*”

##### (1) Case of unstamped receipt.

On the admission of an unstamped receipt in evidence, it is not necessary for the person admitting it in evidence or the Collector to certify by endorsement thereon, as required by this section, that the duty and penalty have been levied in respect thereof. 24 A. 374=22 A.W.N. 72. N

N.B.—Compare now sub-S. (3) of S. 40.

##### (2) Necessity for production of original.

This section, which lays down the necessity of an endorsement being made on an instrument on which penalty has been paid, pre-supposes the necessity of the production of the original instrument itself before the levy of penalty thereon and the admission of secondary evidence. 18 A. 295=16 A.W.N. 68 ; 4 M.H.C.R. 312 ; 7 M. 440 ; 17 M. 473=4 M.L.J. 192 ; 23 M. 49 (P.C.). But see 20 W.R. 68. O

#### 2.—“*Shall thereupon be admissible in evidence.*”

##### Validation of unstamped deed.

Where an unstamped deed of release was written on the back of a deed of conveyance, it was held that the release could be validated under this section on payment of the necessary duty and penalty. 11 M. 40. P

N.B.—Effect of certificate is to render the instrument admissible. 4 A.L.J. 305= A.W.N. (1907) 38 ; 7 N.L.R. 26=10 Ind. Cas. 702. P-1

3.—“*Shall be delivered.*”

## Return of document.

The original document forwarded to the Collector under S. 38 (2) ought to be sent back by him to the impounding officer that it might be returned by him to the proper person under this sub-section. 25 M. 752 at p. 756. Q

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument:

Prosecution for  
offence against  
Stamp-law.

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector<sup>1</sup> that the offence was committed with an intention of evading payment of the proper duty<sup>2</sup>.

## NOTES.

## Old Acts:—

*Act I of 1879:—S. 40.*

*Act XVIII of 1869:—Ss. 22 and 24 (a).*

## General.

## Object of the section.

See 7 B. 82; 12 M. 231; 7 M. 537.

R

1.—“*Unless it appears to the Collector.*”

## Exercise of judgment.

- (a) Criminal proceedings being intended for those cases only, in which the parties have had an intention of evading the stamp-law, it is clearly the duty of the Collector, under this section, to form an opinion as to the existence of such an intention, before instituting prosecution in the case of an instrument in respect of which penalty has been levied. 8 C. 259=10 C.L.R. 365; 7 B. 82. [See also notes under S. 40, *supra*.] S
- (b) In order to prevent indiscriminate prosecutions, the law not only confines the power of instituting prosecutions to the Collector but it also instructs him to exercise it only when it appears to him that the offence has been committed with an intention to evade payment of the proper duty. 7 M. 537; 12 M. 231. See, also, 13 W.R. 102. T

2.—“*Intention of evading payment of the proper duty.*”

## (1) Presumption as to intention.

Where a Civil Court had refused to admit, in evidence, an unstamped transfer of mortgage, effected by means of endorsement on a mortgage-deed, and the parties, subsequently, took steps thereon by referring the matter to arbitration, it was *held* that, in the absence of specific evidence as to fraud or bad faith, the parties could not be presumed to have acted with the intention of evading payment of stamp-duty. 4 A. 462=2 A.W.N. 106. U

2.—“*Intention of evading payment of the proper duty*”—(Concluded).(2) **Essentials for offence.**

On a charge under S. 262 of the I. P. Code, the prosecution must establish not only that the accused had the knowledge that the stamp had been previously used but also that he used it fraudulently or with intention to cause loss to Government by evading payment of the proper duty. 1 A.W.N. 50. Y

(3) **Unstamped bond—Intention to evade stamp laws—Evidence—Construction.**

Where a bond contained a stipulation to the effect that, as the obligors were urgently in want of money and unable to procure a stamp, they executed the bond on plain paper, agreeing to make good any penalty the obligees might have to pay in suing them to enforce the obligation, *held* that this was not in point of law an agreement to evade the stamp laws, though, as a matter of fact, an intention to evade the stamp laws might have been inferred. 3 B.L.R.A.C. 329 = 11 W.R. 553. W

(4) **Fault of registering officer's advice.**

Where, in determining the amount of stamp duty chargeable on an instrument and in stamping the same, the parties had acted as advised by the registering officer, it was *held* that there was clearly no intention of evading the stamp-law. 5 C. 311. X

(5) **Absence of intention to evade.**

On sanction by a Collector for the prosecution of the accused under S. 62 of the Act, he was tried by a Magistrate, who discharged him on the ground that evasion of duty was not the object of the accused: *Held*, that, on the accused in the above summons case having pleaded guilty to the offence, the Magistrate was bound by law to convict, and he should, therefore, have done so, inflicting a merely nominal penalty, in view of the absence, on the part of the accused, of any intention to evade payment of duty. U.B.R. (1905), Jr. Pro. Code, 37. Y

**Old Law.**

Under Regulation XVIII of 1827, the question whether the intention of the parties in not sufficiently stamping documents was not to defraud Government of its revenue, had not to be taken into consideration, that question having been rendered important only, first, by S. 13 of Act XXXVI of 1860 and afterwards, more distinctly, by S. 15 of Act X of 1862. 5 B. 621. Z

**44. (1)**

Persons paying  
duty or penalty may  
recover same in  
certain cases.

When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs <sup>1</sup> in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable <sup>2</sup>.

### NOTES.

#### Old Acts :—

*Act I of 1879*:—S. 41—Same as above excepting sub-S. (3) which is new.

### General.

#### Scope—Stamp duty and penalty—Joint executants—Contribution.

This section is only intended to give right to an innocent party, not guilty of any default in the matter of the proper stamping of a document, to recover the duty and penalty, he is obliged to pay, from the person or persons guilty of default. It is not intended to enable one of several persons, who were under a common duty to pay the proper stamp duty, on a document in proportionate shares, to claim from the others contribution in respect of the amount of the stamp duty and penalty which he has been compelled to pay in full owing to their common default. 2 L.W. 1024=31 Ind. Cas. 285; 30 A. 271=5 A.L.J. 262=28 A.W.N. 130. A

### 1.—“Costs.”

#### S. 148 (3), Cr.P.C.—Insufficiently stamped instruments.

Sub-section (3) does not authorise Magistrates to deal with costs otherwise than those contemplated by S. 148 (3), Cr. P.C. Penalty paid on insufficiently stamped instruments cannot be included in such costs. 23 M.L.J. 224. B

### 2.—“No further proceedings.....maintainable.”

#### (1) Stamp duty and penalty illegally levied by appellate Court.

On the first Court admitting document without any question as to stamp, the appellate Court has no power to act under S. 35 and levy deficient stamp duty and penalty. Its power is only to act under S. 61 *infra* and impound and send the document to the Collector for action, where it illegally acts in levying the deficiency and penalty from a party. S. 44 has no application and that party cannot be made payable as costs by the other party who was legally bound to pay the duty on such instrument. A.I.R. (1924) Oudh 110=9 O. & A.L.R. 77=73 Ind. Cas. 307. C

#### (2) Suit to recover penalty paid on unstamped document—If applicable in case of documents executed when prior stamp-laws were in force.

In a suit on an unstamped bond, the plaintiff had to pay stamp duty and penalty under S. 34 of Act I of 1879, and the present suit was brought under S. 41 of the Act for the recovery from the defendant of the amount of such stamp duty and penalty. It was contended on behalf of the defendant that when the bond was executed, Act XVIII of 1869 was the Stamp Law, that that Act did not contain any provisions in it similar to S. 41 of Act I of 1879, and that the present Act was inapplicable to the case of the present bond. *Held* that this contention, being based upon an erroneous presumption that the penalty on the bond was wrongly imposed under S. 34 of the Stamp Act, I of 1879, was untenable, and that the defendant was bound, under S. 41 of that Act, to pay to the plaintiff the amount claimed by him. A.W.N. (1884) 328. D

## Old Law.

With reference to S. 41 of Act I of 1879 (S. 44 of the present Act) plaintiffs sued to recover the amount of stamp-duty and penalty, which they had paid in respect of a certain instrument. The defendant was the person bound by law to bear the expense of providing the proper stamp for the instrument; it was *held* the amount sued for could not be regarded as part of the costs in the suit in which it was paid and that the present suit was, therefore, maintainable. 6 A. 70=3 A.W.N. 211. **E**

*Note.*—This decision is no longer law by reason of the present S. 41 (3), which lays down that the recovery of the penalty paid cannot be made the subject of a separate suit.

- 45.** (1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing<sup>1</sup> made within one year from the date of the payment, refund such penalty wholly or in part.

Power to Revenue-authority to refund penalty or excess duty in certain cases.

(2) Where, in the opinion of the Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

## NOTES.

## Old Acts :—

Sub-S. (1), above, corresponds to Act I of 1879, S. 42 and Act X of 1862, S. 15 (6).

Sub-S. (2) is new.

1.—“*Upon application in writing.*”

## Old Law—Refund—Duty of Court.

For obtaining remission or mitigation of penalty levied in respect of a document, on which a person relied, and which, owing to a defect in the stamp, was inadmissible as evidence in the suit, it was *held* that such person should himself make timely application under cl. 6, S. 15, Act X of 1862 [the present S. 45 (1)] and it is not the duty of the Court to receive and submit such an application to the Board of Revenue. 10 W.R. 358. **F**

- 46.** (1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

Non-liability for loss of instruments sent under section 38.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

### NOTES.

#### Old Acts :—

Sub-S. (1), above, corresponds to  $\left\{ \begin{array}{l} \text{S. 43, para. 1 of Act I of 1879,} \\ \text{S. 25, para. 3 of Act XVIII of 1869,} \\ \text{and S. 21 of Act X of 1862,} \end{array} \right.$   
and sub-S. (2) corresponds to S. 43, para. 2 of Act I of 1879.

**47.** When any bill of exchange, promissory note or cheque chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable <sup>1</sup> as aforesaid, and such bill, note or cheque shall so far as respects the duty, be deemed good and valid :

Power of payer to stamp bills, promissory notes and cheques received by him unstamped.

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, note or cheque.

### NOTES.

#### Old Acts :—

*Act I of 1879* :—S. 44.

*Act XVIII of 1869* :—S. 26.

*Act X of 1862* :—S. 24.

#### 1.—“Deduct it from the sum payable.”

#### Unstamped pro-note—Maker can affix stamp and deduct.

This section empowers the payer to stamp bills, promissory notes and cheques received by him unstamped. It provides that he need not, in such cases, refuse payment but may fix an one-anna stamp thereto and cancel it and then make payment. He is also permitted to deduct the value of the stamp, which he affixes, from the sum payable by himself, which results in this curious anomaly, that he whose duty it was to have originally stamped the note should be given the liberty to deduct the value of the stamp he affixes to it from the amount payable by him in discharge of such note. 19 B. 635. See also this case noted under Ss. 2 (12) and 12, *supra*. G

**48.** All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

Recovery of duties  
and penalties 1.

#### NOTES.

##### Old Acts :—

No corresponding provision in the old Acts .

##### 1.—“*Recovery of duties and penalties.*”

Collector to realise from whom.

Duty and penalty recovered from persons filing documents. *Held* that the Collector acted with authority in ordering attachment. 30 A. 271= 5 A.L.J. 262=28 A.W.N. 130. H

#### Section 48-A.

[Newly inserted by the various Local Legislatures.]

##### [For Bengal only].—

**48-A.** Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in Bengal with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid on such instrument.—*Bengal Act III of 1922.*

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Bengal.

##### [For Assam only].—

**48-A.** Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of any instrument chargeable in Assam with a higher rate of duty under the Assam Stamp (Amendment) Act, 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the Assam Stamp (Amendment) Act, 1922, has been paid on such instrument.—*Assam Act III of 1922.*

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Assam.

S. 48-A—Newly inserted by the various Local Legislature.

[For United Provinces only].—

**48-A.** Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in the United Provinces with a higher rate of duty under the United Provinces Stamp (Amendment) Act, 1923, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the United Provinces Stamp (Amendment) Act, 1923, has been paid on such instrument.—*U. P. Act V of 1923.*

## CHAPTER V.

### ALLOWANCES FOR STAMPS IN CERTAIN CASES.

**49.** Subject to such rules as may be made by the <sup>(1)</sup> [Local Government] as to the evidence to be required, or the enquiry to be made, the Collector <sup>1</sup> may <sup>2</sup>, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps <sup>3</sup>. spoiled in the cases hereinafter mentioned, namely :—

- (a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means <sup>4</sup> rendered unfit for the purpose <sup>5</sup> intended before any instrument written thereon is executed by any person :
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :
- (c) in the case of bills of exchange, cheques or promissory notes—
  - (1) the stamp on any bill of exchange or cheque signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance : provided that the paper on which any such stamp is impressed does not bear any signature intended as or



for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

- (2) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :
- (3) the stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee : provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note :
- (d) the stamp used for an instrument executed by any party thereto which—
  - (1) has been afterwards found to be absolutely void in law from the beginning :
  - (2) has been afterwards found unfit by reason of any error or mistake therein, for the purpose originally intended :
  - (3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :
  - (4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :
  - (5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the

refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:

- (6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties <sup>6</sup> and bearing a stamp of not less value:
- (7) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing a stamp of not less value:
- (8) is inadvertently and undesignedly spoiled and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped.

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

*Explanation.*—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

### Legislative Changes—Imperial.

[4] The words "Local Government" were substituted for "Governor-General in Council" by Act IV of 1914.

### NOTES.

#### Old Acts:—

This section corresponds to { Act I of 1879, S. 51 (a), (b), (c), (d) and proviso (a); Act XVIII of 1869, Ss. 45 and 46 and Act X of 1862, S. 50, cl. 1. }

#### 1.—"The Collector."

##### (1) Power of Collector to delegate authority.

Under this section and the rules made thereunder, the Collector himself, and none other, is the officer, to whom power is given by law to make inquiries into applications for allowances for spoiled stamps, to take the necessary evidence on oath and to grant or refuse such application; and it is illegal and incompetent for the Collector to delegate his authority in the matter.

5 A. 17=2 A.W.N. 161.

I

##### (2) Collector.

—not a Court. 3 B.L.R. A.Cr. 6.

J

2.—“*May*,”“*May*,”

—means ‘shall.’ 3 C. 47 (P.C.); 21 C. 832 (835).

K

3.—“*Make allowance for impressed stamps*,”**Impressed stamp—Stamped instrument endorsed by Collector.**

Where a stamped instrument has been endorsed by the Collector, under S. 32, the allowance for spoiled stamps provided by this section may be made in respect of such instrument so endorsed, 11 M. 37 (F.B.).

L

(The above was a decision under Act I of 1879. Note the new explanation to S. 49 of the present Act.)

4.—“*By error in writing or any other means*,”**Old Law.**

With reference to S. 51 (a) of Act I of 1879, in which the words “error in writing or.....other” found no place, it was *held* that it could apply only to cases of accidental spoiling of the paper of which the stamp was made and did not cover cases of occurrence of mistakes on the paper in having used it in the ordinary way. 18 M. 122.

M

*Note*—By reason of the occurrence of the above additional words in the new Act II of 1899, this decision is no longer of any force.

5.—“*Rendered unfit for the purpose intended*,”**Stamp punched inadvertently but used.**

Where a stamp paper, presented to a Court for the engrossment of a sale certificate thereon, happened to be inadvertently punched by some officer of the Court but the paper was used as intended and delivered to the purchaser, it was *held* that the document was duly stamped and the reason for making an allowance for a spoiled stamp did not obtain since the stamp was not rendered unfit for use by the punching. 18 M. 235 (F.B.).

N

6.—“*Between the same parties*,”**One of the parties may be different.**

In the sub-clause in Act I of 1879, S. 51, corresponding to the above, the newly added words “between the same parties, etc.,” did not occur and, so, it was *held* that that clause should be construed in a sense sufficiently wide to admit a case in which, though one of the parties has been altered, and the new document is of a somewhat different nature, the transaction evidenced by both instruments is practically the same. 16 M. 459=2 M.L.J. 181 (F.B.).

O

*Note*—This decision is no longer of any effect since the above additional words now occur in the new S. 49 (d) (2) of Act II of 1899. †

Application for relief under section 49 when to be made.

**50.** The application for relief under section 49 shall be made within the following periods, that is to say,—

- (1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument :
- (2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :

- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Provided that—

- (a) when the spoiled instrument has been for sufficient reasons sent out of British India, the application may be made within the six months after it has been received back in British India ;
- (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

#### NOTES.

##### Old Acts :—

This section corresponds to the proviso (b) to S. 51 of Act I of 1879, S. 45 of Act XVIII of 1869 and S. 50, cl. 4 of Act X of 1862.

**51.** The Chief Controlling Revenue-authority <sup>[1]</sup>[or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf] may, without limit of time, make allowance for stamped papers used for printed forms of instruments <sup>[2]</sup>[by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said <sup>[2]</sup>[banker], company or body corporate, provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance in case of printed forms no longer required by corporations.

#### Legislative Changes—Imperial.

[1] These words were inserted by Act IV of 1914. [2] These words were inserted Act V of 1906.

#### NOTES.

##### Old Acts :—

*No corresponding provisions.*

**52.** (a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) When any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13;

the Collector <sup>1</sup> may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

#### NOTES.

##### Old Acts :—

*Act I of 1879*;—S. 52.—Same as above.

##### 1.—“Collector.”

##### (1) Refund of enrolment fee.

Board can refund duty paid by Attorney while being enrolled as an Advocate.  
36 C. 645=9 C.L.J. 621=2 Ind. Cas. 843. P

##### (2) Refund.

——not claimable as right. 7 Ind. Cas. 94. Q

##### (3) Partition decree—Non-judicial stamp—Court-fee stamp—Mistake in stamp—Rectification.

A final decree for partition was drawn up by mistake on a Court-fee stamp instead of on a non-judicial stamp and the mistake was not discovered till the decree had been appealed from and when it was sought to be executed. *Held* on the plaintiff depositing a non-judicial stamp paper in the appellate Court and on the proper entries being made thereupon, the decree would be validated with retrospective effect from the date when it was drawn up.

S. 52 does not cover a case where a Court-fee stamp had been erroneously used instead of a non-judicial stamp. There is no provision in the Stamp Act entitling the plaintiff in such a case to a refund as a matter of right.  
12 C.L.J. 324=14 C.W.N 1101=7 Ind. Cas. 94. R

Allowance for spoiled or misused stamps how to be made.

**53.** In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value; or

- (b) if required and he thinks fit, stamps of any other description to the same amount in value ; or
- (c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

## NOTES

## Old Acts :—

Act I of 1879 :—S. 53—Same as above.

Cf. Act XVIII of 1869, S. 45 and Act X of 1862, S. 50 (3).

**54.** When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

Allowance for stamps not required for use.

- (a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them ; and
- (b) that he has paid the full price thereof : and
- (c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

## NOTES.

## Old Acts :—

Act I of 1879 :—S. 54, same as above excepting the proviso, which is new.

**55.** When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less :

Allowance on renewal of certain debentures.

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the Governor General in Council may direct.

*Explanation.*—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and
- (d) the alteration of the rate of interest or the dates of payment thereof.

#### NOTES.

##### Old Acts:—

*No corresponding provision in any of the old Acts.*

### CHAPTER VI.

#### REFERENCE <sup>1</sup> AND REVISION.

**56.** (1) The powers exercisable by a Collector under Chapter IV and Chapter V <sup>[1]</sup> [and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the Chief Controlling Revenue-authority.

Control of, and  
statement of case to  
Chief Controlling  
Revenue-authority.

(2) If any Collector, acting under section 31, section 40, or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

## Legislative Changes—Imperial.

[1] The words "and under clause (a) of the first proviso to section 26" were inserted by Act XV of 1904.

## NOTES.

## Old Acts :—

Para. 1 above corresponds to { S. 40, para. 1 of Act XVIII of 1869,  
and S. 15 (5) of Act X of 1862.  
and paras. 2 and 3 were S. 45 of Act I of 1879.

## I.—"Reference."

## (1) Reference.

—under this section is confined to the amount of duty payable. 3 C.W.N. S  
581.

## (2) Construction.

See 25 M. 752 noted under S. 57, *infra* and S. 31, *supra*.

T

## (3) Document not in existence.

Under this section, the High Court can deal only with those instruments which are already in existence and which have been the subject of action by the Collector. 37 A. 125=13 A.L.J. 47=27 Ind. Cas. 501. U

Statement of case  
by Chief Controlling  
Revenue - authority  
to High Court or  
Chief Court.

**57.** (1) The Chief Controlling Revenue-authority<sup>1</sup> may state any case<sup>2</sup> referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

(a) if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be ;

(b) if it arises in the North-Western Provinces or Oudh or in Ajmer—to the High Court of Judicature for the North-Western Provinces ;

[1] [(bb) if it arises in the territories for the time being administered by the Lieutenant-Governor of Bihar and Orissa—to the High Court of Judicature at Patna] ;

(c) if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab or in British Baluchistan—to the [2] [High Court of Judicature at Lahore] ;



- (d) if it arises in the Central Provinces—to the High Court of Judicature at Bombay;
- [1] [(dd) if it arises in Burma—to the High Court of Judicature at Rangoon [2]];]
- (e) if it arises in any other part of British India—to the High Court of Judicature at Fort William.

(2) Every such case shall be decided <sup>3</sup> by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

### Legislative Changes—Imperial.

[1] Sub-S. (bb) was inserted by Act XIII of 1916 [2] These words were substituted for "Chief Court of the Punjab," by Act XVIII of 1919. [3] Sub-S. (dd) was inserted by Act VI of 1900 [4] The words "High Court of Judicature at Rangoon" were substituted for "Chief Court of Lower Burma" by Act XI of 1923.

### NOTES.

#### Old Acts:—

*Act I of 1879*—S. 46.

*Act XVIII of 1869*—S. 41 (a) and (b).

#### 1.—"Chief Controlling Revenue authority may."

#### Reference by Chief-Controlling Revenue-authority.

- (a) The Chief Controlling Revenue authority, not being competent to interfere, by way of revision, with a certificate made by the Collector under S. 40 (1), sub-cl. (a), it is not open to such authority to make a reference to the High Court, under this section, of questions relating to an instrument in respect of which the Collector has given such certificate. 25 M. 752. Y
- (b) Except upon a reference under S. 57 by the Chief Controlling Revenue authority, a Civil Court has no power to review the correctness of a Collector's certificate. 7 N.L.R. 126=10 Ind. Cas. 702. W

#### 2.—"May state any case,"

#### (1) Meaning of the word, 'case'.

The decision of a Collector under S. 31, *supra*, as to the duty with which an instrument is chargeable is final, as regards the question of stamp in respect of the instrument, and such matter is not a case, which can be referred by the Revenue authorities to the High Court under this section. The word 'case' as used in the section means a matter which has to be disposed of by the Revenue authorities conformably to the judgment of the High Court on the case referred to it for opinion by the Revenue authorities. (See S. 59, sub-S. 2 of the Act). 25 M. 751. X

#### (2) Certificate by Collector that document is duly stamped—Reference by Board of Revenue to High Court—Jurisdiction of High Court to decide the question.

A Collector, acting under S. 40 (1) (b) of the Stamp Act, levied the deficit stamp duty and penalty payable on an instrument, and after collecting them,

2.—“*May state any case*”—(Concluded).

certified under S. 40 (1) (a) by indorsement on the deed that it was duly stamped ; but the Chief Controlling Revenue authority referred the matter under S. 57 (1) to the High Court for its opinion as to whether the instrument was in fact sufficiently stamped or not. *Held* that this was not a ‘case’ within the meaning of S. 57, that, the Collector having fully decided the case before him and there being no room for any further disposal, the matters referred were, under the circumstances, not within the jurisdiction of the High Court. 40 A. 128=16 A.L.J. 49=47 Ind. Cas. 299 (F.B.). Y

## (3) Documents not in existence—Power of High Court to entertain reference by Board of Revenue

The High Court has no jurisdiction to give an opinion upon documents which are not in existence and which cannot be made the subject of an action by the Collector. 13 A.L.J. 47=37 A. 125=27 Ind. Cas. 501 (F.B.). Z

## (4) Certificate by Head-quarters Deputy Collector that documents are exempt from duty—Reference by Revenue Board to High Court.

A Sub-Registrar, before whom certain documents were produced for registration, impounded them on the ground that they were chargeable as leases ; but the Head-Quarters Deputy Collector, to whom they were forwarded for adjudication of stamp-duty, certified that they were exempt from duty. The Inspector-General of Registration, disagreeing with the opinion of the Deputy Collector, referred the matter to the orders of the Board of Revenue, expressing the opinion that the documents were chargeable as agreements under Art. 5 (b) of Sch. I of the Stamp Act, 1899. The Board of Revenue expressed the view that the documents should be ranked as leases, but referred the question as to stamp duty to the High Court. *Held* (*Sir Arnold White, C.J., dissenting*) that the High Court had no jurisdiction to decide the question. 25 M. 752. A

## (5) Question as to the kind of stamp.

—cannot be referred to the High Court. B.P.J. 1891, 284. B

3.—“*Shall be decided.*”

## High Court not to speculate.

In giving an opinion upon questions submitted to the High Court, under this section, by the Board of Revenue, which may serve in the future as “guide to the Board in imposing” taxes upon the public, the High Court is bound to advise upon the actual facts before them and ought not to speculate upon the possible nature of transactions of which they have no certain knowledge. 3 C. 347 at p. 350. C

**58.** If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Power of High Court or Chief Court to call for further particulars as to case stated.

## NOTES.

## Old Acts :—

*Act I of 1879* :—S. 47.

*Act XVIII of 1869* :—S. 41 (c).

**59.** (1) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

Procedure in disposing of case stated.

(2) The Court shall send to the Revenue-authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

#### NOTES.

Old Acts :—

*Act I of 1879* :—S. 48.

*Act XVIII of 1869* :—S. 41 (d).

**60.** (1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue-authority, he would, under section 57, refer the same.

Statement of case by other Courts to High Court or Chief Court.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References <sup>1</sup> made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

#### NOTES.

Old Acts :—

The above was S. 49 of Act I of 1879 and there was no corresponding provision in any of the earlier Acts.

## General.

## Scope.

Reference permitted only in the circumstances detailed here. This section does not deal with a case where a reference has been made to a Collector and his decision procured. 131 P.L.R. 1906; see, also, 195 P.R. 1883. **D**

## 1.—“References.”

**When Subordinate Court takes no steps—District Court cannot refer.**

Where, on the execution of a bail bond to a District Munsiff, he expressed no doubt as to the duty payable on the bond and took no steps to make any reference through the District Judge but the latter, of himself, referred the case to the High Court under this section, it was held that the District Judge was not authorised to make the reference. 11 M. 38. **E**

**61.** (1) When any Court in the exercise of its civil or revenue jurisdiction *or any Criminal Court in any proceeding, under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898*, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty <sup>1</sup> under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application <sup>2</sup> of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

<sup>3</sup> (3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence

Revision of certain decisions of Courts regarding the sufficiency of stamps.

against the stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that—

- (a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty ;
- (b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

#### NOTES.

##### Old Act :—

*Act I of 1879* :—S. 50, same as above, excepting the portions italicised.

#### General.

##### (1) Scope of section.

- (a) This section is intended for the protection of Government revenue : but provisions of S. 36 *supra* are not affected. 7 Ind. Cas. 382. F
- (b) S. 50 of Act I of 1879, corresponding to this section, *held* not to apply to the case of an instrument, of any of the classes excepted in the first proviso to S. 34 of that Act (now S. 35, proviso (a) of the present Act), which has been erroneously admitted in evidence by a lower Court. In the case of such instruments, the Court could proceed under S. 33 of the Act and impound the same. 195 P.R. 1883. G
- (c) S. 50 of Act I of 1879, which corresponded to this section, was *held* to empower a Court not to reject the document referred to therein but only to direct payment of the proper amount of duty and penalty to be paid on account of the insufficiency of stamp. D.C.R.V. (11). H
- (d) Where a document has been once admitted in evidence as duly stamped, the appellate Court is precluded from questioning the propriety of such admission, but it is open to that Court to proceed under this section in case it should find the document insufficiently stamped. 12 C. 64 ; 13 B. 493 ; 4 M. 140 ; 8 M. 564 ; 25 M. 752 ; 13 B. 493. I
- (e) S. 39 of the Stamp Act provides that when an unstamped or insufficiently stamped document is endorsed by the Collector to the effect that the full stamp duty with which it is chargeable has been paid, it shall be deemed to be duly stamped, and shall be receivable in evidence or otherwise in all Courts and public offices, as if originally executed on paper bearing the proper stamp. And although the Collector is not authorized to make any such endorsement on a promissory note, yet a promissory note so endorsed by him may nevertheless be received in evidence notwithstanding such irregularity. 3 A. 115 [*F.*, 13 B. 449, (*F.B.*)]. J

## General—(Concluded).

## (2) Unstamped or defectively stamped document admitted in evidence—Appeal—Procedure in questioning.

See 13 B. 449 ; 8 M. 564 ; 31 M.L.J. 234 ; 29 C.L.J. 305 = 23 C.W.N. 534 = 27 C. W.N. 513, *supra*. K

## 1.—“Admitting .....upon payment of duty and a penalty.”

## Party's right of appeal.

Where, on a party's refusal to pay the penalty on a document, the same had been erroneously rejected by the Court, the party might appeal on the ground that that Court had committed an error of law in having refused to admit the document in evidence. 5 C. 311. L

## 2.—“The Court to which...references are made...Court...application.”

## Collector's power to refer decision of a Small Cause Court.

Under Act I of 1879, S. 50. corresponding to this section, it was *held* that a Collector was entitled to refer to the High Court the decision of a Provincial Small Cause Court admitting in evidence an insufficiently stamped instrument on payment of duty and penalty. 15 M. 259. M

## 3.—“Clause (3).”

## Stamp duty and penalty illegally levied by the Appellate Court from plaintiff.

Where the first Court had admitted a document without any question of stamp, the Appellate Court has no power to act under S. 35 and levy deficient stamp duty and penalty. Its power is only to act under S. 61 and impound a document and send it to the Collector for action. A.I.R. (1924) Oudh 110. N

## CHAPTER VII.

## CRIMINAL OFFENCES AND PROCEDURE.

Penalty for executing, etc., instrument not duly stamped.

**62.** (1) Any person <sup>1</sup>—

- (a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness <sup>2</sup> or presenting <sup>3</sup> for acceptance or payment, or accepting <sup>4</sup>, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped ; or
- (b) executing or signing otherwise than as a witness any other instrument <sup>5</sup> chargeable with duty without the same being duly <sup>6</sup> stamped ; or
- (c) voting or attempting to vote under any proxy not duly stamped ;

shall for every such offence <sup>7</sup> be punishable with fine <sup>8</sup> which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) <sup>9</sup> If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

### Legislative Changes—Imperial.

#### Changes effected by Act XIII of 1924 (The Indian (Specified Instruments) Stamp Act :—

3. (1) No exception or restriction in respect of promissory notes contained in clause (a) of the proviso to section 35 or in sub-section (1) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies.

Application of certain provisions of Act II of 1899.

(2) For the purpose of the application of clause (a) of the proviso to section 35 and of sub-section (1) of section 40 to instruments to which this Act applies, nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument.

(3) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62.

(4) Where, before the commencement of this Act, any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub-section (1) of section 32, or by way of penalty under the proviso to section 35 or under sub-section (1) of section 40, or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof.

### NOTES.

#### Old Acts :—

*Act I of 1879* :—S. 61, with its proviso, corresponded to sub-section (1) above and proviso.

<p>{ and <i>Act XVII of 1869</i>, Ss. 29 and 30 with <i>Act X of 1862</i>, Ss. 3 and 11 and <i>Act X of 1862</i>, S. 23</p>	}	<p>corresponded to sub-S. (1) above. corresponded to the above proviso.</p>
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Sub-S. (2) above is new.

### General.

#### (1) Scope of section.

Section is self-contained as to unstamped receipt. 64 Ind. Cas. 296.

## General—(Concluded).

## (2) Receipt of unstamped instrument.

The mere receipt of an unstamped instrument does not constitute the offence of abetment of the execution of such an instrument, 7 B. 82; 1 N.L.R. 163, unless there should be clear evidence of conspiracy; for, conspiracy cannot be inferred from the mere fact of acceptance. 3 A.W.N. 145; 4 A.W.N. 37. P

## (3) Determination of stamp duty.

The real nature of the instrument, as gathered from its plain terms and not any title which may have been given to it by the parties, must be taken into consideration in determining the stamp-duty leviable on an instrument; 3 B.H.C.R.A.C.J. 94, 100; and the document itself as it stands and not any collateral circumstances must be looked at for the above purpose. 16 C. 432. Q

## (4) Mere proposal to borrow money.

A letter containing a mere request for a loan of money with a promise to repay the same does not constitute a promissory-note but is a mere proposal and is therefore not liable to stamp duty. 13 B. 669; 23 M. 156 (Note-note); 27 M. 1 (F B), dissenting from 16 M. 228. R

## (5) Intention to evade payment.

(a) A Magistrate is not justified in acquitting an accused of an offence under this section on the mere ground that, with reference to the proviso to S. 43, *supra*, there was no intent on the part of the accused to evade the law but, in consideration of the absence of such intent, the Magistrate might inflict a merely nominal penalty. U.B.R. (1905), Cr. Pro. Code, 37=2 Cr. L.J. 468. S

(b) *Held*, under S. 29 of Act XVIII of 1869, corresponding to this section, that in the case of a deed of gift of immovable property executed on an insufficient stamp, the donor, but not the donee, committed the offence under this section and that intention to evade payment of stamp duty was not an essential ingredient in the offence. 6 M.H.C. App. v. S-1

(c) Where there was no dishonest intention to evade payment of stamp duty, a prosecution and conviction under S. 62 are not warranted by law. 54 Ind. Cas. 406=21 Cr. L.J. 54=1 U.P.L.R. (H.C.) 136; 1931 Pat. 173=2 Pat. L.T. 623=2 Pat. L.J. 623; *contra*, 12 M. 231; 6 M.H.C.R. App. v. T

(d) For the purposes of ascertaining whether any and what penalty should be imposed, a Magistrate is bound to consider the question whether a person, prosecuted under this section, had any intention to defraud the Government by evading payment of stamp duty. The prosecution might have been ordered by the Collector without due consideration and the Magistrate is not bound to be guided, so far as the question of penalty is concerned, by the mere fact of the prosecution having been instituted but must himself arrive at a decision upon the above question. 2 C. 399; 7 B. 82. U

(e) Necessity for proof of such intention. See 8 C. 259. Y

## (6) Previous sanction of the Collector, necessity for.

A prosecution, under S. 3 of Act X of 1862 (which corresponded to this section), was *held* altogether irregular and unsustainable in the absence of the previous sanction of the Collector or any other Officer specially authorised by the Government in that behalf. 2 N.W.P.H.C. 188. W

## (7) Offence committed under a repealed Act.

S. 6 of Act I of 1863 (the present General Clauses Act X of 1897, S. 6) provides that the repeal of an Act does not affect anything done, or any offence committed, or any fine or penalty incurred before the repealing Act shall have come into operation. Therefore, an offence committed under S. 3 of Act X of 1862 (now S. 62 of Act II of 1899), when that enactment was in force, is still an offence and may be tried under that enactment. 7 M.H.C. App. viii and ix. X



## 1.—“Any person.”

**Meaning of the words.**

The term ‘person’ in this section as well as in S. 65 includes the members of a trading partnership. So, where a firm granted an unstamped receipt for money signed by their Agent, on their behalf, the members of the firm were held liable, under this section and S. 65, since they were, in contemplation of law, the persons who signed the unstamped receipt refusing to give a duly stamped receipt and it was not necessary that the members must have been present at the writing of the unstamped instruments or must have been aware of the writing of them. 27 C. 321=4 C.W.N. 440. Y

## 2.—“Drawing, making.....otherwise than as a witness.”

**To whom criminal liability does not attach.**

- (a) Persons, who have merely written up or engrossed documents, liable to duty on unstamped papers or have simply attested such instruments as witnesses, are not liable under this section. 1 B.H.C. 87; 2 B.H.C. 129. Z
- (b) Attesting witnesses and persons, who have merely drafted documents and noted that fact with their signature at the foot of the documents, *held* not to come within the words “make, execute, sign or be a party to” used in S. 3 of Act X of 1862 (corresponding to this section) and therefore not liable under the section. 3 M.H.C. App. 27. A
- (c) So also holder of insufficiently stamped bond. 40 P.R. 1880. B

## 3.—“Presenting.”

**‘Presenting’, meaning of.**

Presenting like accepting is a technical term and is so used here. See U.B.R. (1892—1896), Vol. I, 312 (32 M. 753; 7 M. 71, F.). C

## 4.—“Accepting.”

**(1) Meaning of the word.**

The term “accepting” in the section does not mean receiving but executing as an acceptor. Therefore, where a person received a promissory note, which was not duly stamped, and subsequently put it in suit, it was *held* that his acts did not constitute an offence under this section and that he was not liable to any penalty either as principal or abettor. 20 A. 440; 7 M. 71=1 Weir 902; U.B.R. (1892—1896), Vol. I, pp. 311, 312; 32 B. 753; 4 O.C. 168; 12 P.R. 1887 (Cr.); 18 P.R. 1895 (Cr.). D

**(2) Unstamped letter containing acknowledgment.**

An acknowledgment, by means of a letter, of the receipt of money in satisfaction of a debt is a “receipt” within its definition in the Act and if the amount is over Rs. 20 and the letter unstamped, the writer will be liable to conviction. 8 M. 11; and the case of a writer of a letter acknowledging the receipt by him of a cheque for over Rs. 20 will also be the same. 11 M. 329; 8 C.W.N. 378. E

## 5.—“Executing”.....instrument chargeable with duty.”

**(1) Signing otherwise than as a witness—“Executing”, meaning of.**

An arbitration award duly signed and executed by the arbitrator bore also the signatures of the applicants under the head “signatures of the heirs.” The award not being duly stamped, *held*, that the conviction of the applicants under S. 62 was bad, inasmuch as the signatures of the applicants were not necessary to complete the execution of the document. The word “executing” in S. 62 (b) must mean “signing” so as to complete the document so that it may have full legal effect. 32 A. 198=7 A.L.J. 180=11 Cr. L.J. 52=5 Ind. Cas. 180. F

## 5.—“Executing.....instrument chargeable with duty”—(Continued).

## (2) Signing otherwise than as a witness.

- (a) The words—includes the writing of a person's name by himself or by his authority, with the intention of authenticating a document, as being that of the person whose name is so written. 27 C. 324=4 C.W.N. 440. **G**
- (b) An ordinary agent authorised to sign on behalf of his principal comes within the purview of the section. (*Ibid.*) **H**
- (c) Where a clerk signs a firm's name under the authority of the firm, it makes little difference that he wrote the letters to the dictation of the manager and he may properly be convicted under this section (*Ibid.*) **I**

## (3) Whether arbitrator liable for prosecution for signing award without its being duly stamped.

An award by an arbitrator directing a partition in an instrument of partition and where the same has not been duly stamped and has been signed by the arbitrator, the arbitrator is liable to prosecution, because he has put his signature otherwise than as a witness to dutiable instrument which has not been duly stamped. 24 Cr. L.J. 592=73 Ind. Cas. 336=A.I.R. (1924) Oudh 240. See 1 Cr. L.R. 354. **J**

## (4) Entries in Account Books.

- (a) Mere entries of loans in account books cannot be treated as bonds liable to have been stamped as such and the making of such entries cannot therefore amount to an offence under this section. 2 N.W.P. 453. **K**
- (b) So also an entry in creditor's book. A.W.N. (1903) 173. But see 35 A. 290=11 A.L.J. 309=20 Ind. Cas. 216. **L**

## (5) Memorandum of mortgage transaction in mortgagee's account book.

A mere memorandum of a mortgage transaction made by a mortgagee in his account book, but not written at the instance or under the authority of the alleged mortgagors, *held* not to be a mortgage-deed nor to come under any of the classes of instruments chargeable with stamp duty under the Schedule. No prosecution can therefore be instituted for the execution of the said instrument without stamp. 31 P.R. 1883 (Cr.). **M**

## (6) Unstamped Receipt—For payment of amount on decree.

Absence of fraudulent intention in not stamping a receipt of payment of a decree is not sufficient to make a conviction bad. Art. 53 of the Stamp Act does not exempt, from payment of stamp, a receipt of payment of a decree for rent, although it makes an exception in favour of a receipt for payment of rent of an agricultural holding. When the debt of rent merges into a decree, a receipt for money paid must be stamped. 31 A. 36=A.W.N. (1908) 272=5 A.L.J. 747=9 Cr. L.J. 37=1 Ind. Cas. 568. **N**

(7) *Amaldustak*, whether requires stamp—Convictions, if maintainable.

On a construction of *amaldustak* which was for a term of seven years, but wherein no rent was fixed, *held* that the document did not require stamp and so the conviction of the executant of the document under this section was set aside. 20 C.W.N. 923=1 Pat. L.J. 366=17 Cr. L.J. 495=36 Ind. Cas. 175=3 Pat. L.W. 72. **O**

## (8) Proposal for loan in prescribed form of bank and approval thereof by Manager if constituted an agreement which should bear eight annas stamps—Intent to defraud Government.

A certain local Bank received an application for a loan of Rs. 50 in its prescribed form. The application contained in the usual column of the form a sort of guarantee of payment by a person other than the applicant recommending the granting of the loan on a bond and the Manager of the Bank approved the proposal for the loan and recommended it at a certain rate of interest as to which the applicant and the guarantor were silent. Both the Manager and the Secretary of the Bank were prosecuted and the Manager was

5.—“*Executing.....Instrument chargeable with duty*”—(Concluded).

convicted under S. 62 (b) and the Secretary under S. 68 (c) of the Stamp Act. *Held*—that the statements in the proposal made by the applicant himself and by the Manager did not represent a completed agreement, more particularly with regard to the rate of interest. At most they represented merely negotiations intended to lead up to the execution of bond and the payment thereon of the amount of the loan, and the conviction of the Manager under S. 62 (b) of the Stamp Act could not be maintained. *Held*, also, that the conviction of the Secretary under S. 68 (c) was also not sustainable as no intention to defraud Government was made out. 21 O.W.N. 756=40 Ind. Cas. 725=18 Cr. L.J. 725. **P**

(9) **Receiving back one's own money—Failure to affix stamp on receipt—Conviction illegal.**

A Tahsildar, in a theft case, ordered that the money, which was recovered by the police from the house of the accused, be returned to the applicant, as it was part of the property stolen from his house. On receiving the money the applicant executed a receipt without fixing any stamp on it. He was subsequently convicted under S. 62, cl. 1 (b) of the Indian Stamp Act : *Held*, quashing the conviction that the receipt came under exemption (b) to Art. 58. 29 A.L.J. 288. **Q**

(10) **Receipt—Memorandum given as a voucher for money received by one servant from another—No stamp necessary.**

Where under the orders of his master a servant received a sum of money from a co-servant for the purpose of paying it over to a third party and wrote and gave a document acknowledging receipt of the money, *held* that the document was merely a memorandum and was not a receipt for money received on one's own account and no stamp is necessary and no offence is committed if it is unstamped. 18 Cr. L.J. 968=42 Ind. Cas. 328=4 O.L.J. 490. **R**

(11) **Petition to Court intimating compromise of suit—Agreement—Court-fee label.**

A document which is merely a petition to the Court informing it of an agreement into which the parties had orally entered out of Court to compromise a suit and praying for a decree in the terms of the compromise does not require to be engrossed upon the general stamp but only requires the ordinary Court-fee label. 15 A.L.J. 846=40 A. 19=19 Cr.L.J. 48=42 Ind. Cas. 1008. **S**

6.—“*Without the same being duly stamped,*”

(1) **Stamping document as one liable to less duty.**

Where a person executed an instrument evidencing an agreement to secure the repayment of a loan with interest giving, as collateral security, a certain promissory-note payable on demand and stamped the instrument as an agreement relating to deposit of title-deeds, etc., under Art. 6, whereas, it ought to have been stamped as a mortgage-deed under Art. 40, *held* that he was properly prosecuted under this section. 4 C.W.N. 524=27 C. 587. **T**

(2) **Stamp on salary bill uncanceled.**

Where a salary bill of a Government Officer sent to the Treasury for payment was discovered to have the one-anna receipt stamp, affixed thereto, uncanceled, *held*, that an offence under this clause had been committed. 9 A. 210. *See* the same case noted under S. 63, *infra*. **U**

(3) **Purchasing stamp without certificate.**

Failure of the Treasury Officer or a stamp-vendor to give, on the sale of stamps, the certificate required by the stamp rules does not render a document written thereon not ‘duly stamped’ and the person purchasing stamps without such certificate cannot be charged with an offence under this section. 18 C. 89. **Y**

(4) **Unstamped receipt issued by unauthorised Gomastha.**

Where an unstamped receipt was issued by a *Gomastha* of a firm evidencing payment of money to the firm, and the accused, the sole surviving member of the firm, admitted receipt of the money paid, but there was no proof that

## 6.—“Without the same being duly stamped”—(Concluded).

the receipt was written or granted by the *Gomastha* in the presence or under the authority of the accused, *held*, that the accused could not rightly be convicted of an offence under Cl. (b) of this section. 8 C.W.N. 378 (F., 13 C.W.N. 189). W

## (5) Taking unstamped receipt.

The accused, a debtor, paid a sum of money to his creditor and asked for a stamped receipt, when the latter said he could not give a stamped one as he had no stamp. Thereon the accused accepted, the only thing he was able to get (i. e.,) a receipt without a stamp and promised, himself, to affix one. *Held* that, upon these facts, the accused could not be charged for having abetted the offence of making an unstamped receipt. 8 A. 18=A.W.N. (1885) 517. X

## 7.—“Every such offence.”

## (1) Offence under section.

(a) See U.B.R. (1897—1901), Vol. I, 330. Y

(6) It is—to grant a receipt not bearing proper stamp in payment out of Court for satisfying rent decrees. 31 A. 36=5 A.L.J. 747=A.W.N. (1908) 272; 27 C. 587=4 C.W.N. 524. Z

## (2) Offence, gist of.

See A.W.N. (1883) 239. A

## (3) Offence, abetment of.

(a) Mere receipt of unstamped instruments not constituting. 1 N.L.R. 163; U.B.R. (1904), 2nd. Qr., Stamp 1; A.W.N. (1884) 37; 10 C.P.L.R. Cr. 1. B

(b) Debtor taking unstamped receipts when creditor had no stamp is no—, 8 A. 18=A.W.N. (1885) 517. C

(c) Not cancelling stamp affixed to receipt no offence. 9 A. 210. D

## (4) Abetment of execution.

(a) An accused was convicted by a Magistrate for abetment of an offence under this section by reason of his account books having contained an unstamped acknowledgment, of the balance due, signed by the debtor. *Held*, that the conviction was not illegal. 5 A.W.N. 30. E

(b) If, to a debtor's acknowledgment of a debt entered in the creditor's account book, a promise to pay interest is added by the debtor, such promise will amount to a distinct agreement and the creditor, by reason of having taken in his account book such an unstamped agreement, will be liable for having abetted an offence under this section. 10 C.P.L.R. (Ap. Cr.) 1. Compare 23 W.R. 503 and 15 C. 150; but see 4 B. 326 and 22 C. 757. F

## 8.—“Fine.”

## Fine.

Amount of—, See 5 A.W.N. 30. G

## 9.—“Sub-section (2).”

## Omission to stamp share-warrant.

An omission to stamp a share warrant is an offence punishable by penalty. 20 C. 676. H

## 63.

Penalty for failure to cancel adhesive stamp.

Any person required by section 12 to cancel an adhesive stamp and failing to cancel such stamp<sup>1</sup> in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

## NOTES.

## Old Acts :—

This section corresponds to  $\left\{ \begin{array}{l} \text{S. 62 of Act I of 1879.} \\ \text{S. 31, last para. and} \\ \text{S. 33, para. 2} \end{array} \right\}$  of Act XVIII of 1869.  
and Ss. 8 & 11 of Act X of 1862.

1.—“*Failing to cancel such stamp.*”

## (1) Receipt—Non-cancellation of stamp.

Each of several items acknowledging receipt of over Rs. 20 in a *Sarkhat* to be stamped. An accused can be convicted for non-cancellation of receipt stamp affixed. 35 A. 390=11 A.L.J. 309=14 Cr.L.J. 392=20 Ind. Cas. 216; 1 Weir 901; see, hereon, 1 L.B.R. 282. I

## (2) Rule as to cancellation of adhesive stamp cases to which applicable.

A salary bill of a Government Official sent to the treasury for payment was discovered to have the one-anna receipt stamp, affixed thereto, uncanceled. The Collector, thereupon, instituted prosecution under this section against the Official. *Held*, that no offence was committed under this section since the instrument in question was one required to be stamped at or before the time of execution and was not of the kind contemplated by S. 11 of Act I of 1879. 9 A. 210=7 A.W.N. 5. J

Penalty for omission to comply with provisions of section 27.

**64.** Any person who, with intent<sup>1</sup> to defraud the Government,—

- (a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth<sup>2</sup>; or,
- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or
- (c) does any other act<sup>3</sup> calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

## NOTES.

## Old Acts :—

Clause (c) above is new.

Clauses (a) and (b) correspond to  $\left\{ \begin{array}{l} \text{S. 63 of Act I of 1879.} \\ \text{Ss. 34 (c), 35 of Act XVIII of 1869 and S. 51 of} \\ \text{X of 1862.} \end{array} \right\}$

## General.

## Scope of section.

(a) See 1 Weir 901. K

(b) When the stamp affixed to a document is found correct according to the valuation of the property set forth therein, the Collector has no duty to perform under S. 40. Therefore, where a Collector had sanctioned the prosecution of the executant of such an instrument and the latter was convicted by the Magistrate of an offence under this section but was acquitted on appeal on the ground that the Collector had not complied with the provisions of Ss. 40 and 43 of the Act, *held*, that the acquittal was wrong. 12 M. 231. K-1

1.—“*Intent.*”

## Failure to stamp document—Fraudulent intent.

Mere non-payment of a proper stamp duty does not make a person liable to prosecution under this section unless it is proved that he had an intention to defraud the Government of its stamp revenue. 19 Cr. L.J. 515=45 Ind. Cas. 275. L

2.—“*Not fully and truly set forth.*”

## (1) Non-disclosure of certain facts, liability for.

M. & S. executed on a sale-deed conveying certain property to R. The consideration for the sale was Rs. 20,000, of which only Rs. 1,000 was paid down in cash, the covenant for the remainder being that R. should keep the sum of Rs. 19,000 in deposit to the credit of the vendors, the latter to draw upon it at their convenience. Before anything more was paid, R. reconveyed the same property to M., the sale-deed purporting to be simply for a consideration of Rs. 1,000 paid down in cash. *Held*, that R. committed an offence punishable under this section, inasmuch as the deed of reconveyance was a conveyance within the meaning of S. 2 (10), the consideration for which was Rs. 20,000; viz., Rs. 1,000 in cash and Rs. 19,000 remitted. 32 A. 171=7 A.L.J. 110=11 Cr. L.J. 204=5 Ind. Cas. 697. M

## (2) Agreement to let—Advance not mentioned.

In a written instrument, by which one person agreed to let another have wood to be cut from his jungle, the amount of the advance which the former had taken from the latter was not set forth. *Held*, that the conviction of the above two persons, under S. 34 of Act XVIII of 1869 (corresponding to the section), for not having fully and truly set forth the amount of the consideration, was illegal and must be set aside since the section had no application in respect of the aforesaid instrument at the execution of which no transfer of any property had been effected. C.P.L.R. Cr. No. 87 (1877). N

3.—“*Does any other act, etc.*”

## (1) “Any other Act”, meaning of—Document insufficiently stamped—Prosecution under the section, if maintainable.

The words “any other Act” in cl. (c) of S. 64 mean an act of a like nature to those which are specified in cls. (a) and (b); and thus the mere fact that a person puts a stamp on a document, which he knows not of proper value would not bring the case within cl. (c) of the section. 24 C.L.J. 441=21 C.W.N. 248=17 Cr. L.J. 466=36 Ind. Cas. 146=44 C. 321. O

## (2) Making entry in creditor's book.

An entry made by a debtor in the creditor's book of the fact of a payment made by him is not ‘executing’ a receipt not duly stamped, or the commission of any other act calculated to deprive the Government of any duty under the Act. 23 A.W.N. 173. P

Penalty for refusal to give receipt and for devices to evade duty on receipts.

## 65. Any person<sup>1</sup> who,—

- (a) being required under section 30 to give a receipt<sup>2</sup>, refuses or neglects to give the same; or,
- (b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

### NOTES.

#### Old Acts:—

The above corresponds to { S. 64 of Act I of 1879.  
S. 27 (b) of Act XVIII of 1869 and S. 29 of Act X of 1862.

### General.

#### (1) Scope.

This is a special provision and it does not interfere with S. 62. *supra*. S M. 11 (F B.). Q

#### (2) Previous sanction of the Collector, necessity for.

In cases of the commission of the offences constituted by this section, prosecution can be instituted only upon the previous sanction of the Collector under S. 70 (1), *infra*. 9 B. 27. Followed in 21 P.R. 1915 (Cr.) = 38 P.W.R. 1915 (Cr.) = 16 Cr. L.J. 787 = 31 Ind. Cas. 643. R

### 1.—“Any person.”

#### Meaning of the term.

- (a) The term ‘person,’ in this section as well as in S. 62, *supra*, includes the members of a trading partnership. 27 C. 324 = 4 C.W.N. 440. S
- (b) So, where a firm granted an unstamped receipt for money signed by their Agent, on their behalf, the members of the firm were held liable, under Ss. 61 and 64, since they were, in contemplation of law, the persons who signed the unstamped receipt, refusing to give a duly stamped receipt, and it was not necessary that the members must have been present at the writing of the unstamped instruments or must have been aware of the writing of them. (*Ibid.*) T

### 2.—“Receipt.”

#### (1) Receipt, Memorandum not a.

Where, at the request of a person who made payment of money to another, a third person drew up a mere memorandum stating that money was received by that other, *held*, the memorandum was not a receipt, since to

## 2.—“ Receipt ”—(Concluded).

constitute a receipt within its meaning in this Act, there must be an acknowledgment, either express or implied, of the receipt, and not a mere statement that the money was received. 23 B. 54. U

## (2) Unstamped letter.

Unstamped letter acknowledging receipt of money. See 8 M. 11 noted under S. 62, *supra* and 11 M. 329. Y

## (3) Receipt of money by money order—Refusal by payee to give a duly stamped receipt to the remitter, if an offence.

G remitted a sum of Rs. 34 to B a postal money order. B on receipt of the money signed the receipt in duplicate and delivered the same to the postal peon. G demanded a duly stamped receipt from B which B refused to give. Held, that B ought not to be convicted under this section for having refused to give the second stamped receipt to G, since under the notification No 785, dated 17th February 1899 issued by the Governor-General in Council in exercise of the powers conferred by S. 9 of the Stamp Act the Governor-General remitted the duties chargeable on certain instruments which are specified at the foot of the order of which No. 30 is “ receipt endorsed by the payee on a postal money-order ” 34 A. 192=9 A.L.J. 97=13 Cr. L.J. 122=13 Ind. Cas. 778. See U.B.R. (1897—1901) Vol. I, 378. W

Penalty for not making out policy or making one not duly stamped.

## 66. Any person who—

- (a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or
- (b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

## NOTES.

## Old Acts:—

*Act I of 1879*:—S. 65 same as above.

*No corresponding provision in any of the earlier Acts.*

## General.

## Scope.

The provisions of this section create special offences relating to insurance policies and they do not interfere with S. 62, *supra*. See 8 M. 11 (F.B.). X



**67.** Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets <sup>1</sup>.

#### NOTES.

##### Old Acts :—

*Act I of 1879* :—S. 66.

*Act XVIII of 1869* :—S. 32.

*and Act X of 1862* :—Ss. 12, 25.

##### 1.—“Penalty for not.....sets.”

##### (1) Scope.

The provisions of this section create special offences. They do not interfere with S. 62, *supra*. See S M. 11 (F.B.). Y

##### (2) Second exchange payable on demand.

A—need not be stamped with one anna stamp if first exchange has been so stamped. 4 L.B.R. 320 (F.B.). Z

Penalty for post-dating bills, and for other devices to defraud the revenue.

#### **68.** Any person who—

- (a) with intent <sup>1</sup> to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made ; or,
- (b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment, of such bill or note, or in any manner negotiates the same ; or,
- (c) <sup>2</sup> with the like intent, practises or is concerned in any act <sup>3</sup>, contrivance or device not specially provided for by this Act or any other law for the time being in force :

shall be punishable with fine which may extend to one thousand rupees.

## NOTES.

## Old Acts :—

- Clauses (a) and (b) above correspond to { Act I of 1879, S. 67, para. 1 and Act  
X of 1862, S. 13.
- Clause (c) corresponds to Act I of 1879, S. 67, para. 2.

1.—“ *Intent to defraud.*”(1) *Intention essential element.*

Intention to defraud the Government of the duty payable to it is an essential element to constitute the offence under this section. 16 C. 432 at p. 435. See 1 Weir 907=23 M. 155; 21 C.W.N. 753. A

(2) *Evasion apparent.*

For an—of stamp law a party cannot be prosecuted. 5 P.R. 1886. B

2.—“ *Clause (c).*”

## Scope of clause (c).

- (a) This clause is of general application and not controlled by the previous clauses so as to restrict its application to bills of exchange and promissory notes. 3 M. 138 (F.B.). C
- (b) The essential question in a case under S. 68 (c) is whether the act complained of is a decree intended to defraud the Government of duty payable in respect of a document, 21 C.W.N. 752=18 Cr. L.J. 725=40 Ind. Cas. 725. D

3.—“ *Act, contrivance, etc., not specially provided for.*”

## Mere execution of document.

The execution of a document, which on its face requires to be, and is not, stamped cannot be said to be an “act, contrivance, etc., not specially provided for” within the meaning of this section, because where the document is what on its face it purports to be, the act of the executant, if punishable at all, is provided for under S. 62, *supra*, and cannot therefore fall under this section. Further, the act of the person receiving the unstamped document may amount to abetment of an offence under S. 62 and would then be “an act provided for by any other law for the time being in force,” *viz.*, the Penal Code—and equally not within the terms of this section. 23 M. 155. E

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

**69.** (a) Any person appointed to sell stamps who disobeys any rule made under section 74; and

(b) any person not so appointed who sells or offers for sale <sup>1</sup> any stamp (other than a one-anna <sup>[1]</sup> [or half an anna] adhesive stamp);

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend, to five hundred rupees, or with both.

## Legislative Changes—Imperial.

[1] The words “or half an anna” were inserted by Act V of 1906.

## Legislative Changes—Provincial.

**[For Bombay only].**—In clause (b) of section 69, before the words "one anna", the words, "*two annas*" shall be inserted.—*Bom. Act II of 1922.*

## NOTES.

## Old Acts :—

This section corresponds to { S. 68 of Act I of 1879 ; para. 3 of S. 48 of Act XVIII  
of 1869,  
and S. 48 of Act X of 1862.

## General.

## Scope of section.

- (a) Sale of Court-fee stamps by an unlicensed person is not an offence under this section. 4 A. 216=2 A.W.N. 23. F
- (b) Purchasing stamp under a false name is not an offence. 4 A.W.N. 87. G

1.—"*Sells, or offers for sale.*"(1) "*Sells or offers for sale*"—Meaning.

The words "*sells or offers for sale*" occurring in this section and in S. 34 of the Court-fees Act include the case of a thief who exchanges a stolen stamp for a sum of money. 24 M. 319=1 Weir 725. H

(2) *Selling without license.*

See Rat. Un. Cr. Cas. 317.

**70.** (1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector<sup>1</sup> or such other officer as the Local Government generally, or the Collector specially, authorises<sup>2</sup> in that behalf.

(2) The Chief Controlling Revenue-authority, or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

## NOTES.

## Old Acts :—

Sub-section (1) corresponds to { Act I of 1879—S. 69, para. 1.  
Act XVIII of 1869—S. 43,  
and Act X of 1862—S. 52.

Sub-section (2) corresponds to Act I of 1879, S. 69, para. 2.

Sub-section (3) is new.

## General.

## (1) Opportunity to party.

Before acting under this section it is the duty of the Collector to allow the party an opportunity of paying the duty and penalty. 7 B. 82 noted also under Ss. 40 and 43, *supra*. I

## (2) Collector actual prosecutor.

The Collector being recognised as primarily responsible for the institution of prosecution for offences punishable under this Act or any other Act hereby repealed, he ought not to, himself, try as a Magistrate persons accused of such offences. 2 A. 806; 24 W.R. Cr. 1. J

## 1.—“Sanction of the Collector.”

## (1) Procedure.

(a) To prosecute a person for having committed an offence under S. 65, *supra*, the previous sanction of the Collector, as laid down in this section, must necessarily be obtained. The jurisdiction of the Magistrate to proceed with the trial depends upon such previous sanction and it is essential, also, that the record of the conviction on trial should evidence the said sanction. 9 B. 27; 21 P.R. 1915 (Cr.); U.B.R. (1892—1896), Vol. I, 307; 9 A. 210. K

(b) Before according the sanction for prosecution laid down by this section it is not incumbent on the Collector to make a formal inquiry or to record a proceeding. 7 M. 537. L

## (2) Prosecution without Collector's sanction under this section—Illegality.

(a) A Magistrate has no jurisdiction to try a person in respect of an offence alleged to have been committed by him under S. 65, without the sanction of the Collector being first obtained to the institution of the prosecution. 21 P.R. 1915 (Cr.)=88 P.W.R. 1915 (Cr.)=16 Cr. L. J. 787=31 Ind. Cas. 543. M

(b) Want of sanction is not merely a technical objection. 3 A.W.N. 98; 2 N.W.P. 188. N

## 2.—“Such other officer as the Collector authorises.”

## (1) Memorandum of sanction.

—not a complaint, 5 B.H. C. R. Cr. 48. O

## (2) Collector to appoint person to try.

Where a Collector had authorised a Magistrate, under S. 43 of Act XVIII of 1862 (the present S. 70 (1)), to institute and conduct prosecutions of offenders against the stamp laws, it was held that that Magistrate was not competent to try persons prosecuted by himself and that Collectors should ordinarily appoint persons other than Magistrates for the purpose of conducting such prosecutions. 3 C. 622=2 C.L.R. 179; 2 A. 806. P

**71.** No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Jurisdiction of Magistrates.

## NOTES.

## Old Acts :—

Act I of 1879 :—S. 70.

Act XVIII of 1869 :—S. 44.

Act X of 1862 :—S. 53.

## 1.—“Jurisdiction of Magistrates.”

## (1) What the Magistrate to consider.

On a prosecution being instituted before a Magistrate, he has to consider and decide whether an offence against the Act has been committed and whether the prosecution has been brought before him by the proper officer. 24 W.R. Cr. 1 = 2 A. 806. Q

## (2) Materials.

For—in judgment, see 24 W.R. Cr. 1. R

**72.** Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

Place of trial.

## NOTES.

## Old Acts :—

This section corresponds to S. 71 of Act I of 1879.

*There was no corresponding provision in any of the earlier Acts.*

## CHAPTER VIII.

## SUPPLEMENTAL PROVISIONS.

**73.** Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge.

Books, etc., to be open to inspection.

## NOTES.

## Old Acts :—

This section is new.

*There was no corresponding provision in any of the old Acts.*

Powers to make rules relating to sale of stamps.

**74.** The Local Government, subject to the control of the Governor General in Council, may make rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons :

*Provided that such rules shall not restrict the sale of one anna* <sup>[1]</sup> *[or half an anna] adhesive stamps.*

### Legislative Changes—Imperial.

[1] The words "or half an anna" were inserted by Act V of 1906.

### Legislative Changes—Provincial.

[For Bombay only].—In the proviso to section 74, before the words, "one anna", the words, "two annas." shall be inserted.—*Bom. Act II of 1922.*

### NOTES.

Old Acts:—

*Act I of 1879*:—S. 55, except the italicized portion.

*Act XVIII of 1869*:—S. 48, para. 1.

*Act X of 1862*:—S. 36.

**75.** The Governor General in Council may make rules <sup>1</sup> to carry out generally the purposes of this Act, *and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.*

Power to make rules generally to carry out Act.

### NOTES.

Old Acts:—

*Act I of 1879*:—S. 56 was the same as above except that the words, 'consistent herewith' between the words 'rules' and 'to' have now been omitted therefrom and the portion italicized has been newly added. S

### 1.—"May make rules, etc."

#### (1) Rules consistent with Act.

The words 'consistent herewith' which followed the word 'rules' in S. 56 of Act I of 1879 corresponding to this section have been omitted in the latter. Under the former Act, it had been held that rules issued under the Act were *ultra vires* when not consistent either with the Act or with its general purposes. 8 M. 582. See, also, 5 B. 188 and 7 M. 176; 13 A. 66. T

#### (2) Government resolutions and opinions of the Legal Remembrancer.

Courts are not bound to follow—since they are not rules. 10 B. 78; 9 B. 97. U

**76.** (1) All rules made under this Act, other than rules <sup>1</sup> made under section 74, shall be published in the Gazette of India, and all rules made under section 74 shall be published in the local Gazette.

Publication of rules.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

## NOTES.

## Old Acts :—

This section was the second para. of S. 57 of Act I of 1879 and the second para. of S. 48 of XVIII of 1869.

## 1.—“ Rules.”

## Rules made by the Governor General in Council.

—held to have the force of law, 13 A. 66,

Y

Delegation of certain powers.

[1] **76-A.** The Local Government may, by notification in the local official Gazette, delegate—

- (a) all or any of the powers conferred on it by sections 2 (9), 33 (3) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority; and
- (b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1), (2), 56 (1) and 70 (2) to such subordinate Revenue-authority as may be specified in the notification.

## Legislative Changes—Imperial.

[1] S. 76-A was newly inserted by Act IV of 1914.

**77.** Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

Saving as to court-fees.

## Legislative Changes—Provincial.

[For Bengal; the Punjab; Assam and the United Provinces].

—At the beginning of section 77, the following shall be inserted, namely :—

“ Except for the provisions as to copies contained in section 6-A.”

## NOTES.

## Old Acts :—

This section was S. 59 of Act I of 1879 and S. 17 of Act XVIII of 1869.

**78.** Every Local Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

Act to be translated and sold cheaply.

## NOTES.

## Old Acts :—

Act I of 1879 :—S. 60.

Act XVIII of 1869 :—S. 51.

**79.** [Repeal.] Repealed by Act X of 1914.

# SCHEDULE I.

## STAMP DUTY ON INSTRUMENTS.

(See section 3.)

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>1. <b>ACKNOWLEDGMENT</b> of a debt exceeding twenty rupees in amount or value, written or signed by <sup>1</sup>, or on behalf of, a debtor in order to supply evidence of such debt <sup>2</sup> in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession : <i>provided that such acknowledgment does not contain any promise to pay <sup>3</sup> the debt or any stipulation to pay interest <sup>4</sup> or to deliver any goods or other property.</i></p>	<p><i>Imperial</i> ... Anna One.</p>

### NOTES.

#### Old Acts :—

This article was { Act I of 1879, Sch. I, art. 1.  
—XVIII of 1869, Sch. II, art. 5.

### General.

#### (1) Schedule exhaustive.

The Schedule attached to the Stamp Act must be treated as exhaustive. 20 C.W.N. 923=1 Pat. L.J. 366=17 Cr. L.J. 496=36 Ind. Cas. 175=3 Pat. L.W. 72.

#### (1½) Scope of article—Acknowledgment, unconditional, whether implies promise to pay.

This article must be construed strictly for the purposes of the Act. It covers an acknowledgment of debt provided that such acknowledgment does not contain any promise to pay the debt. An unconditional acknowledgment would not be deemed to imply a promise to pay for the purposes of this article and would, therefore, be covered by it. And such an acknowledgment, if not duly stamped, is inadmissible in evidence under S. 95. 50 Ind. Cas 781.



## General—(Continued).

## (2) Memoranda.

Extracts from banker's books with a credit and debit side and balance struck but signed by neither of the parties nor containing any acknowledgment of, or promise to pay, the debt due, *held* to be mere memoranda not requiring to be stamped, under this article, for the purpose of being given in evidence for what they are worth. A.W.N. (1906) 8C=3 A.L.J. 342=28 A. 436. E

## (3) Entry in Mahajan's cash book.

The mere fact that an entry in a Mahajan's cash-book is signed by the person affected by it does not convert it into an acknowledgment of debt, unless it is established that, according to mercantile usage, or by the use actually made of the entry, it was the effect of such an acknowledgment. 10 C.P. L.R. (Cr.) 7. C

## (4) Acknowledgment with postage stamp instead of receipt stamp.

An acknowledgment stamped with an one-anna postage stamp instead of a receipt stamp, *held* not as bearing "a stamp of sufficient amount but of improper description" but as having been not stamped at all, 23 A. 213=21 A.W.N. 54. D

## (5) Document liable to stamp duty under the Stamp Act, how determined—Entry in an account attested by borrower.

In determining whether a document falls within the description of documents liable to stamp duty under the Stamp Act, the entire document must be looked at. An entry in an account, with two sides to it—*viz.*, 'amount advanced' and 'amount received,'—the amount due on which varies from time to time, and depends upon the relation of the two sides is not, because of the borrower affixing his seal or signature to each entry of advance, a note or memorandum whereby any debt is acknowledged to be due, and is not chargeable with stamp duty. 4 C. 885=3 C.L.R. 520. [R., 31 C. 1043=9 C.W.N. 83; D., 11 C.W.N. 1122; F., 9 C. 127]. E

## (6) Balance of account.

Art. 5 of sch. II of the General Stamp Act, 1869, applies to cases where any account, debt, or demand, or any part thereof amounting to Rs. 20 or upwards, is expressed to have been balanced and assented to by both the parties. An entry in a *hatchitta* representing a balance of account arrived at by one only of the parties, does not require to be stamped. 25 W.R. 361 [D., 11 C.W.N. 1122]. F

## (7) Running account—Balance brought forward.

The provisions contained in art. 5, sch. II, Act XVIII of 1869, mean that only once the stamp is to be affixed in a running account, the balance brought forward from the close of a previous year not being a new balance requiring fresh stamp. 24 W.R. 439. G

## (8) Words of release contained in an acknowledgment—Whether an acknowledgment or release.

An account book kept by an Agent, V.R., for the dealings between himself and his principal consisted of 73 pages and contained at the top of page 70, the entry "due to me Rs. 24,850-12-4" and at the foot the words "the balance of the liability is made up of monies advanced by my Agent, V.R., from time to time on my behalf. The above does not include interest due on them." At page 71 it continued: "I have examined the several items of account entered herein in detail and I find them to be correct. I hereby release my agent, V.R., from all claims to account against him by me or any one claiming under me in respect of the said receipts and disbursements. I hereby acknowledge the correctness of every one of the items of expenditure." Underneath there was the principal's signature. The Trial Judge rejected the above statements holding that they contained an acknowledgment of a debt and should have been stamped with a one-anna stamp. On appeal, *held per curiam*, (i) affirming the decision of the Trial Judge that the statement

## General—(Concluded).

"due to me, etc." amounted to an acknowledgment of a debt within the meaning of article, and was not a mere endorsement vouching simply the correctness of the entries and should have been therefore stamped with a one-anna stamp; and (ii) the statement "the above does not include interest on them" does not amount to a stipulation to pay interest within the meaning of art. 1. 31 M.L.J. 851=(1917) M.W.N. 121=5 L.W. 279=37 Ind. Cas. 984. H

## 1.—"Written or signed by.....debtor."

## (1) Balance struck and carried to another account.

Where, on an adjustment of an account, a balance was struck and carried to another account and was signed by the defendant acknowledging the same as due for balance of old account, *held*, the transaction amounted to an acknowledgment governed by this article by reason of the defendant's signature to the statement of the balance. 7 B. 414 at p. 417. *Of. 3 A.W.N. 127*, See, hereon, 18 C.W.N. 697=22 Ind. Cas. 858=19 C.L.J. 87; 9 B H.C.R. 429. I

## (2) Acknowledgment of debt.

A document contained an entry to the following effect and it bore a stamp of one anna: "Out of Rs 22-8 0 due to Shaik by my late elder brother Ahmed. I have paid Re. 1; the balance will be paid by instalments." *Held*, that the instrument was nothing more than an acknowledgment of a debt and was sufficiently stamped. A.W.N. (1883) 127. J

## (3) Entry of balance due not signed by debtor.

An entry of the balance struck in the creditor's account, which is not signed by the debtor, is not a note or memorandum of the kind mentioned in art. 5, sch. II of the Stamp Act, 1869. 2 A. 641. K

## (4) Entries not written or signed by debtor.

Entries in the creditor's account books which have not been 'written, signed by, or on behalf of, the debtor' cannot amount to acknowledgments liable to duty under this article. 11 B. 526. L

(5) *Khata* bearing signature of writer as writer.

A *khata* in the name of a debtor acknowledging the receipt of the amount advanced, and bearing the signature of the writer of the *khata* as writer of it merely, *held* not a bond but an acknowledgment. 14 B. 511. M

## 2.—"In order to supply evidence of such debt."

## (1) Entry by debtor in books of creditor.

(a) Whether an account signed by a debtor in the books of his creditor amounts to an acknowledgment within the meaning of this article is a question depending in each case upon the form and object of the entry. 8 C. 282. [R., 21 B. 201 (F.B.); 30 C. 687]. N

(b) In each case, the instrument of acknowledgment must be carefully examined in connection with the surrounding circumstances in order to ascertain whether it has been signed to supply evidence of a debt. 21 B. 201 at p. 205. O

## (2) Adjustment of accounts—Necessity for stamp—Admissibility in evidence.

An adjustment of account is not admissible in evidence, unless stamped with an one-anna stamp. 2 C.L.R. 346. P

## (3) Acknowledgments saving limitation.

(a) An instrument does not become liable to stamp duty under this article merely because it constitutes an acknowledgment of a debt under S. 19 of the Limitation Act. There are other conditions required to be fulfilled, one of which is that it should be intended to supply evidence of the debt. 30 C. 687. Q

O<sup>10382</sup>

## 2.—“In order to supply evidence of such debt”—(Concluded).

- (b) Where a letter, from a debtor to his creditor, written ‘*ante litem motam*’ and before limitation in respect of the debt had expired, was tendered in evidence as an acknowledgment of the debt for the purpose of saving limitation, *held*, that the same was admissible for the said purpose, though unstamped. 15 A. 56=12 A.W.N. 224; 19 M. 255; 21 B. 201; 30 C. 687. R

- (4) Balance struck and signed by debtor in the books of his creditor—Limitation Act, S. 19.

Whether a balance signed by a debtor in the books of his creditor amounts to an acknowledgment is a question depending on the form and intention of the entry. If the acknowledgment was written with intent to supply evidence of the debt, it comes under art. 1. 6 L.L.J. 393 (30 C. 681; 39 C. 789, *Rel. on*). S.

- (5) Account adjusted and balanced and signed as correct, if acknowledgment inadmissible unless stamped—Debt and account, Distinction between—Limitation.

The plaintiff had various monetary dealings with the defendant from and after 28th August, 1905; the account up to the 1st of September, 1908, was adjusted and stated between them showing a balance of Rs. 45,039-9-3 due to plaintiff, below which “I accept this correct—E. and O. B.” was written by plaintiff; the defendant signed below it without affixing an one-anna stamp; the balance was carried forward, further debit entries were continued and on the date of filing the suit (6th July, 1911) Rs. 58,932-1-3 were due to the plaintiff from the defendant. The trial Judge regarded the debit balance on 1st September, 1908 and the words and signature below it as acknowledgment of the debt by the defendant within the meaning of art. 1, and held it to be inadmissible in evidence and disallowed the amount as being barred by limitation. On appeal, *held by Jenkins, C. J.*—That the signature of the defendant admitting the balance struck to be correct (errors and omissions excepted) was not an acknowledgment of debt within the meaning of art. 1, and that the plaintiff was entitled to a decree for the whole amount in suit. *Woodroffe, J.*—That the entry of the 1st September, 1908, and the acknowledgment of same by defendant was only an admission by him of the correctness of the account, and did not require to be stamped to be admissible in evidence. 16 C.W.N. 945=39 C. 789=15 Ind. Cas. 279 (4 C. 885; 9 C. 127; 15 C. 162, *Diss.*; 15 C. 162, *F.*). T

- (6) Entries in account *re* advances and part-payments.

Entry in an account showing advances of money made to, and part-payment made by, the debtor, the whole entry being written and signed by the debtor, is not an acknowledgment liable to duty under this article. 9 C. 127. U

- (7) Balance sheet signed by *gumastah*.

A balance sheet made out and signed by a *gumastah* of a business showing a balance due by him to the owner of the business is not an acknowledgment governed by this article. 15 C. 162. V

- (8) Account book entries, if required to be stamped—Admissible in evidence.

The account book entries are not liable to stamp duty and are admissible in evidence for what they are worth. 29 Ind. Cas. 943=8 Bur. L.T. 238. W

- (9) Letter containing admission—Admissibility in evidence.

A letter containing an admission is admissible in evidence without stamp. 23 W R. 325. But see S. 17, *supra*. X

- (10) Letter stating profits of partnership.

A letter which, with reference to the terms of a compromise between the parties, stated approximately the amount of profits standing to the plaintiff's credit in a partnership, *held*, not an acknowledgment under this article but an agreement. 8 M.L.J. 66; 19 M. 255 (5 M. 220; 3 C. 787; 13 B. 449; 18 B. 797, *F.*). Y

- (11) Document in form of letter.

—*held* to be an acknowledgment and if unstamped inadmissible in evidence. 45 A. 374=21 A.L.J. 263=71 Ind. Cas. 1027. Z

## 3.—“Does not contain any promise to pay, etc.”

## (1) Acknowledgments not becoming bonds or pro-notes.

- (a) Documents, which are acknowledgments falling under this article, do not become bonds by reason merely of their providing for interest and happening to be attested by witnesses, since no document can be a bond, unless it is one which by itself creates an obligation to pay money. 22 C. 757. (a case under old law). **A**
- (b) An entry in an account book, which purported to attest that the accounts of a certain person had been balanced by a third party, who had declared that the result of the making up of the accounts was to show that a certain sum was due by a certain person, who in the presence of a witness signed in acknowledgment of the correctness of the accounts, *held* not to be a bond and therefore not liable to duty as such. 4 P.R. 1885 (Rev.). **A-1**
- (c) A document signed by the debtor ran as follows: “This sum I am bound to pay you. Therefore adding to this sum interest at .....I am liable to pay.. ...”. *Held*, that the words above do not amount to an undertaking to pay and the document, therefore, is not a promissory note but constitutes only an acknowledgment of liability to pay. 7 M.L.J. 291=21 M. 49. But see 18 Bom. L.R. 124; 9 S.L.R. 150=32 Ind. Cas. 582. **B**

## (2) Promise to pay.

—must be unconditional. (1911) M.W.N. 380=10 M.L.T. 530; *contra* 50 Ind. Cas. 781. **C**

## (3) Acknowledgments becoming bonds or pro-notes.

- (a) An acknowledgment of a debt, signed by the executants and attested by a witness, under which the creditor was to receive the balance from the executants, was *held* to be a bond as the executants had obliged themselves thereby to pay the money. 35 P.R. 1903=101 P.L.R. 1903 (F.B.) [R., 102 P.R. 1905; 102 P.R. 1908; 119 P.R. 1908]. **D**
- (b) A writing stating a sum to be ‘due to.....and payable on the 16th July, *held* not a mere acknowledgment but a promissory note, and being payable otherwise than on demand was not sufficiently stamped with the one-anna stamp it bore. 8 C. 645=7 C.L.R. 88. **E**

## (4) Statement of accounts in creditor’s account book.

A—signed by the debtor but containing no promise to pay nor amounting to a new contract in substitution of the original cause of action, *held* a mere acknowledgment of liability of the debt then alleged to exist, rightly stamped with an one-anna stamp under this article. 68 P.R. 1904. **F**

## 4.—“Does not contain.....any stipulation to pay interest.”

## (1) Memorandum of a settled transaction.

A mere memorandum or note, drawn up in respect of a transaction just settled between the parties, which contained in it stipulations for payment of interest but no promise to repay the money, was *held* to be neither a promissory note nor an agreement and it was doubted whether it was even an acknowledgment requiring to be stamped under this article. 27 A. 84=A.W.N. (1904) 169 [R., A.W.N. (1906) 80=3 A.L.J. 242=38 A. 436; 4 L.B.R. 330=14 Pur. L.R. 287] but see 25 E. 373; 11 C.W.N. 1123. **G**

## (2) Entry in creditor’s account book acknowledging debt and stipulating to pay interest—Memorandum of agreement chargeable with duty of eight annas.

*Held*, (Ormond, J., dissenting) that an entry in a creditor’s account book, signed by the debtor and containing an acknowledgment of a debt, with the words “at a premium of one-anna and six pies above the two months *tavanai* interest” was more than a mere acknowledgment of a debt, as the particular words constituted a “stipulation to pay interest,” and that the document was a “memorandum of an agreement,” chargeable with a duty of eight annas, under art. 5 (b), Sch. I of the Act. 4 L.B.R. 330 (F.B.)=14 Bur. L.R. 287 (35 C. 111; 25 B. 373, F.; 27 A. 284, Diss.; 32 C. 757, R.). **H**

4.—“Does not contain.....any stipulation to pay interest”—(Concluded).

- (3) *Sarkhat* acknowledging debt and stipulating rate of interest payable—Memorandum of agreement.

See 17 A.L.J. 19=1 U.P.L.R. 29=41 A. 169=52 Ind. Cas. 974, noted under Art. 5, *infra*. I

- (4) *Roka* containing debit and credit entries and a balancing item and signed—Intention of the party in giving the document—Admissibility in evidence.

A *roka*, containing and showing debit and credit entries, the amount of interest and a balancing item at the end and the words, “balance payable up to a certain date” and the signature of the person giving the *roka*, is not an acknowledgment coming under this Article. 45 M.L.J. 399=18 L.W. 485= (1923) M.W.N. 743=74 Ind. Cas. 1029=46 M. 943=A.I.R. (1924) Mad. 352. But see 3 O.C. 195. J

## 2. ADMINISTRATION-BOND<sup>1</sup>, including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Saving Banks Act, 1873, section 78 of the Probate and Adminis- tration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889,—

- (a) Where the amount does not exceed Rs. 1,000 ... *Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*  
—The same duty as a bond (No. 15) for such amount.

- (b) in any other case ... *Imperial* ... Rupees Five.  
*For Madras, Bengal, Bombay, Punjab, U. Prov., C. Prov., Assam—*  
Rupees Ten.

### NOTES.

#### Old Acts :—

This article was—Act I of 1879, Sch. I, art. 2.

#### 1.—“Administration-bond.”

- (1) Administration-bond formerly liable to double duty.

Prior to the amendment of Sch. II, No. 6 of the Court Fees Act by S. 18 of the Probate and Administration Act (VI of 1889) an Administration-bond was regarded as liable to duty both under the Stamp Act I of 1879 and under the Court Fees Act. 11 A. 16, (17). K

- (2) Administration-bond, chargeable with duty under Stamp Act, art. 2.

The usual bond executed on the grant of letters of administration will have to be stamped under art. 2, sch. I of the Indian Stamp Act, 1879, which being the later Act and inconsistent with the provision in art. 16 of sch. II of the Court-Fees Act of 1870, repeals the said provisions of the Court-Fees Act by necessary implication. 165 P.R. 1879. L

3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording <sup>1</sup> an adoption or conferring or purporting to confer an authority to adopt.	<i>Imperial</i>	... Rupees Ten.
	<i>For Madras</i>	... Rupees Fifteen.
	<i>For Bengal, Bombay, Punjab, C. Prov., Assam</i>	... Rupees Twenty.

ADVOCATE. See ENTRY AS AN ADVOCATE (No. 30),

#### NOTES.

##### Old Acts :—

This article (was)—Act XVIII of 1869, Sch. II, art. 31.

##### 1.—“Instrument recording an adoption.”

Under Art. 38 of Sch. I of Act I of 1879 it was held that a deed, which recited the fact of a former adoption and invested the person adopted with the powers of a son, was not liable to any stamp duty no authority to adopt having been thereby conferred. 13 B. 280; 13 B. 281. M

*Note.*—The present Act, however, places instruments recording an adoption, on the same footing as those conferring an authority to adopt. So the above cases are not good law.

4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	<i>Imperial</i>	... Rupee One.
	<i>For Madras, Bengal, Bombay, Punjab, C. Prov., U. Prov., Assam—</i>	Rupees Two.

##### *Exemptions.*

Affidavit or declaration in writing when made—

- (a) as a condition of enlistment under the Indian Articles of War ;
- (b) for the immediate purpose of being filed<sup>1</sup> or used in any Court or before the officer of any Court ; or
- (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 3.

—X of 1863, Sch. A, art. 8.

—XXXVI of 1860, Sch. A, art. 2.

Exemption to the above corresponds to—

Art. 1, Sch. ii of Act I of 1879.

S. 15 (2), and art. 14, Sch. ii of Act XVIII of 1869.

## 1.—“For the immediate purpose of being filed.”

## (1) “Immediate purpose.”

That an affidavit was made before a Nazir, instead of before the Court itself, where it had to be filed, could not take the case out of exemption (b) above, except when there has been such unreasonable delay as would be inconsistent with what is meant by ‘immediate.’ 12 B. 276 [P., 30 B. 275=7 Bom. L.R. 697]. N

## (2) Appointment of election agent—Declaration—No stamp necessary.

No stamp is necessary for a declaration of the appointment of an election agent. The declaration required by Rule 10 (2) of the Berar Electoral Rules cannot be classed as an affidavit. 60 Ind. Cas. 870. O

## 5. [4] AGREEMENT OR MEMORANDUM OF AN AGREEMENT—

(a) if relating to the sale of *Imperial* ... Annas Two.  
a bill of exchange.

*For Bombay, Punjab.*—Annas Four.

*For Bengal, Madras, C. Prov., Assam,  
U. Prov.*—Annas Three.

(b) if relating to the sale of *Imperial*:—Subject to a maximum of  
a Government security, ten rupees, **one anna** for every  
or share in an incor- Rs. 10,000 or part thereof, of the  
porated company or value of the security or share.  
other body corporate.

*For Bombay.*—Subject to a maximum  
of Rs. 20 **two annas** for every  
Rs. 10,000 or part thereof, of the  
value of the security or share.

*For C. Prov., Bengal, Madras, Assam,  
U. Prov.*—Subject to a maximum  
of Rs. 15 **one and half anna** for  
every Rs. 10,000 or part thereof, of  
the value of the security or share.

*For Punjab.*—Subject to a maximum  
of Rs. 15 **two annas** for every  
Rs. 10,000 or part thereof, of the  
value of the security or share.

- (c) if not otherwise provided for <sup>1</sup> *Imperial* ... Annas Eight

*For Bombay, C. Prov., Punjab.—Rupees One.*

*For Bengal, Madras, Assam, U. Prov.—Annas Twelve.*

*Exemptions.*

Agreement or memorandum of agreement—

- (a) for or relating to the sale of goods <sup>2</sup> or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ;
- (b) made in the form of tenders to the Government of India for or relating to any loan ;
- (c) made under the European Vagrancy Act, 1874, section 17.

[FOR ASSAM ONLY.]

- (d) Executed for service or the performance of work in any estate whether held by one person or by more persons than one as co-owners and whether in one or more blocks and situated in Assam where the advance given under such agreement does not exceed Rupees Fifty.

*For Assam only.—Annas Four.]*

AGREEMENT TO LEASE.

*See LEASE (No. 35).*

**Legislative Changes—Imperial.**

- [1] This clause was substituted by Act VI of 1910, S. 3, cl. (i).



## NOTES.

## Old Acts:—

This Article was

{	Act I of 1879, Sch. 1, art. 5.
	—XVIII of 1869, Sch. II, arts. 3 and 11.
	—X of 1862, Sch. A, art. 5 and para 6.
	—XXXVI of 1860, Sch. A, art. 18.

Exemptions (a) and (b) to the above correspond to art. 2 (a) and 2 (d) and (f) of Sch. II of Act I of 1879.

————— to S. 15 (8) of Act XVIII of 1869.

————— to Exemp. to art. 4 of Act X of 1862.

————— to Exemp. cl. 2 to art. 1 of Act XXXVI of 1860.

## 1.—“If not otherwise provided for.”

- (1) Agreement not securing any amount if governed by art. 3 or 6.

An agreement which does not secure “any amount” cannot come under Art. 6, but must come under the residuary Art. 5 of the Stamp Act. 4 L.W. 472 = 31 M.L.J. 347 = (1916) 2 M.W.N. 231 = 35 Ind. Cas. 864. P

- (2) Agreement to reward pleader by share of amount realized in suit—Legality—Necessity of stamp.

The Court should not enforce an agreement to reward a pleader for his professional services by a share of the amount received in suit in which he is retained. Where a pleader is to receive a remuneration under a special agreement contained in his *vakalatnamah* or in a separate document, the document containing the agreement must bear a stamp of adequate value. 3 Agra 286. Q

## A.—INSTRUMENTS FALLING UNDER ART. 5 (c).

- (1) Letter fixing share in partnership business.

A letter fixing approximately the value of the plaintiff's share in a partnership business in accordance with the terms of a compromise arranged between the parties, *held* not to be an acknowledgment but an agreement falling under this clause. 8 M.L.J. 66. R

- (2) Indemnity note.

An indemnity note, passed by a consignee in respect of delivery to him of goods for which he was unable to produce the railway receipt, *held* liable to duty of eight annas under this clause. 5 B. 478 (F.B.) [D., L.B.R. (1893—1900) 119]. S

- (3) Agreements for exchange of goods.

Agreements or memoranda of agreements to deliver goods in exchange are not agreements of sale but are liable to stamp duty of eight annas as agreements “not otherwise provided for.” 25 B. 696 = 3 Bom. L.R. 384. T

- (4) Agreement independent of engrossed lease.

Where correspondence between a landlord and his tenant regarding the lease of certain premises contained a complete agreement independently of a draft and the engrossed lease, *held* such correspondence must be stamped as an agreement by itself. 17 C. 548. U

- (5) Agreement to lease—Growing grass, if immoveable property—Stamp duty.

A rented his pasture ground to B. The rent-note recited that B was to graze 18 she-buffaloes at Rs. 1-10 per head on the ground for a fixed period for a consideration of Rs. 21-2-0 to be paid by him to A in two instalments, that the whole amount should become payable at once in default of payment of any instalment, and that interest should be paid at the rate of 2 per cent. per month, if the amount remained unpaid beyond the fixed period. *Held* (*Nanabhai Haridas, J., dissentiente*) that the instrument was an agreement

## 1.—“If not otherwise provided for”—(Continued).

## A.—INSTRUMENTS FALLING UNDER ART. 5 (c)—(Continued).

and, as such, chargeable with a stamp duty of eight annas under cl. (c) of art. 5, sch. I of the Stamp Act (I of 1879). Per *Nanabhai Haridas, J.*—Growing grass is immoveable property within the definition of the expression in S. 2 of the General Clauses Act (I of 1868). So, the instrument was a lease chargeable with a stamp duty of four annas. If growing grass is not immoveable property the agreement is one for or relating to the sale of goods, the price being fixed with reference to the quantity to be consumed by the cattle. So, the instrument is exempt from stamp duty under sch. II, art. 2 (a) of the Stamp Act (I of 1879). 13 B. 67. V

## (6) Lease—Rent not reserved—Stamp.

A document whereby no rent is reserved comes under the category of agreements not otherwise provided for and is properly stamped with a duty of eight annas. 8 Bom. L.R. 401. W

## (7) Agreement by mortgagor to mortgagee.

An instrument, by which a mortgagor relinquished his title to the mortgaged property in favour of the mortgagee and also agreed to pay the Government assessment until the transfer of the land to the name of the mortgagee in the Collector's book, *held*, to be chargeable both as a conveyance and as an agreement under this clause. 15 B. 675. X

## (8) Promise to pay interest added to acknowledgment.

(a) A promise by a debtor to pay interest added to an acknowledgment of a debt in a Mahajan's account book is an agreement chargeable under this clause. 10 C.P.L.R. Cr. 1 (1896). Y

(b) An acknowledgment mentioning the fact of interest having been agreed upon but containing no stipulation to pay, *held* to be neither a mere acknowledgment nor a bond but an agreement requiring an eight anna stamp. 25 B. 373=2 Bom. L.R. 1122. Compare 15 U. 150. Z

(9) *Sarkhat* acknowledging debt and stipulating rate of interest payable—Memorandum of agreement.

A memorandum of the rate of interest to be payable in future, when appended to an acknowledgment of debt, over the signature of the debtor for the express purpose of being used thereafter as evidence of an agreement to pay interest at the particular rate specified, must be regarded as a stipulation to pay interest within the meaning of the proviso of this article so as to make the document a memorandum of an agreement within the meaning of this article and a document described as a *sarkhat*, which, in addition to acknowledging a debt, contains over and above the said acknowledgment a note of the rate of interest to be payable thereafter on the debt thus acknowledged, is a document of the foregoing description. 17 A.L.J. 19=1 U.P.L.R. 29=52 Ind. Cas. 974. A

(10) *Hatchitta* containing implied promise to pay interest whether acknowledgment of debt, or agreement or memorandum of agreement.

A *hatchitta* ran as follows: “Account E. B. (the debtor). The year 1312, B. S. Interest on this amount at the rate of one anna per month per rupee.” Then followed the credit and the debit entries. *Held*, that there was an implied promise to pay interest, and the document ought to be stamped as an agreement or a memorandum of agreement with an eight-annas stamp, and not as an acknowledgment of a debt with a one-anna stamp only. 11 C.W.N. 1122 (27 A. 84, Diss.; 25 B. 373, F.; 25 W.R. 361; 4 C. 885, D.). B

(11) *Hatchitta*, containing stipulation to pay interest—Acknowledgment or agreement.

*Held* that the document sued upon was not a mere acknowledgment of a debt, inasmuch as it contained a stipulation that the amount should bear interest at a certain rate, and should therefore have been stamped as an agreement or memorandum of agreement with a stamp of eight annas. 11 C.W.N. 1120=35 O. 111 (25 B. 373, R.L. on.) [F., 4 L.B.R. 330=14 Bur. L.R. 287.] C

## 1.—“If not otherwise provided for”—(Continued).

## A.—INSTRUMENTS FALLING UNDER ART. 5 (c)—(Continued).

## (12) Instrument—Construction of.

An instrument under which a person acknowledges having received a sum of money and undertakes to pay interest at a specified rate *per mensem* must be construed as an agreement. 23 W.R. 403 [F., 15 C. 150]. D

## (13) Scope and applicability of.

The language of cls. (3) and (4) of the Stamp Act seems clearly to imply that the document must provide for the payment of a fixed sum of money, whether ascertained at the time or not, by one person to another. *Held*—that, where parties were engaged in a business in which the plaintiff advances money to the defendant on promissory note and an instrument was drawn up between them in which, among other arrangements, it was provided that a certain rate of profit (or interest) should be paid on the loans, the document was not a bond but an agreement chargeable with fixed and not *ad valorem* duty. U.B.R. (1892—1896) Vol. II, 629. E

## (14) Debt bond containing distinct agreement, stamp duty chargeable on.

Where in a simple money bond executed for a loan of Rs. 12-8-0, there was contained a promise made by the obligor to give a certain quantity of grain to the obligee besides repaying the principal with interest, the proper stamp duty payable on the instrument was held to be eight annas, that being the stamp duty required for an agreement liable to the higher rate of duty of the two parts of the instrument in question. It was however competent to the obligee to abandon the agreement for the payment of *naghi* and sue to recover the principal of Rs. 12-8-0, with interest, a stamp of two annas being sufficient to cover the loan bond for the amount. 4 B. 19. F

## (15) Agreement by Contractor, Public Works Department.

(a) An agreement taken from a contractor by the Department of Public Works for the execution of works by him was held to fall within art. 11 of Sch. II of Act XVIII of 1869 which corresponded to this clause and to be chargeable with a duty of eight annas. 13 W.R. 353. G

(b) A contract for work entered into by a contractor stipulating that payments should be made to him from time to time, but that the Engineer might retain 10 p. c. of the value due as compensation for default and as security for proper performance on the part of the contractor, held to be chargeable under this article and not under art. 40. 7 M. 209. H

## (16) Agreement for personal service.

A document by which a person agreed to serve a company for a fixed time under a penalty of a fixed sum of money in case of breach was held to be an agreement merely and not to require to be stamped as a bond. 14 M. 18. I

## (17) Agreement promising future sale.

A document whereby the party executing it purported to sell his right, title and interest in certain receipts for shares and to execute in future a regular document of sale thereof, and acknowledged the receipt of a sum of money, was held to be an agreement chargeable under this clause, the property in the receipts not being intended to pass forthwith. 14 B. 316. J

## (18) Agreement by Abkari licensee.

Where an Abkari licensee executed a *muchilikā* stating that he agreed to all the terms and conditions mentioned in the license, held, that the *muchilikā* ought to be stamped under this clause. 15 M. 134. K

## (19) Agreement—Stamp.

The document produced by the defendant in this case, the stipulation in the concluding part of which he sought to make use of for the purpose of proving that he was not bound to restore to the plaintiffs the promissory notes sued for by them, unless and until a house belonging to him was given back to him in good order, was held to constitute an agreement requiring a stamp of eight annas. 4 B. 328. L

## 1.—“If not otherwise provided for”—(Continued).

## A.—INSTRUMENTS FALLING UNDER ART. 5 (c)—(Concluded).

## (20) Bond and agreement.

Where an instrument which set forth a contract for the sale and delivery of 500 to 700 cases of hog's lard on certain terms, contained an undertaking on the part of the seller not to sell any hog's lard to any other party, or to make any shipments during the term of the contract without the consent of the purchaser, under a penalty of Rs. 5,000 by way of liquidated damages in the event of his failure to take delivery under the contract, *held* that the document was an agreement and not a bond. 7 B.L.R. 510 [Appr., 8 C. 384]. M

## (21) Agreement to supply cotton.

An agreement to supply cotton in consideration of a sum of money received requires stamp of the value specified in art. 4, sch. A. Stamp Act X of 1862. 5 B.H.C.A.C. 151. N

## (22) Hire-purchase instrument—Agreement or conveyance—Stamp-duty.

An instrument described as a hire-purchase contract was entered into between A and B whereby one Linotype machine was hired by the latter for 27 months upon terms and conditions set forth in the document. The question arose whether this is to be stamped as an agreement or a conveyance. *Held*, upon the construction of the document, that it is simply an agreement to hire the machinery in question with an option on the part of the hirer to purchase, and as such it is liable to be stamped as an agreement within the meaning of Art. 5, cl. (c) of sch. I to the Stamp Act and not as a conveyance. 24 C.L.J. 93=20 C.W.N. 1252=44 C. 72=37 Ind. Cas. 175. O

## (23) Document not attested by witnesses and undertaking to deliver a certain quantity of grain on demand—Neither a promissory note nor a bond—Agreement.

An instrument which is not attested and under which the maker undertakes to deliver a certain quantity of grain on demand is neither a promissory note nor a bond. It is an agreement which will fall under Art. 5, A.I.R. (1924) Oudh 106. P

## (24) Document by which executant undertakes to deliver on payment a quantity of grain—Not a promissory note.

A document by which the executant undertakes to deliver on payment a certain quantity of grain is not a promissory note. It is an agreement requiring a stamp of annas 8 under Art. 5. 73 Ind. Cas. 465. Q

## (25) Submission to arbitration, stamp upon.

Where certain contract notes, in addition to the intimation by the broker of the purchase or sale of the goods, contained submissions in writing by the buyer and seller to refer disputes to arbitration signed by the broker as the authorized agents of the parties and, being stamped with a one anna stamp according to a practice recognised by the Court for a long series of years, was held by the Trial Judge to be inadmissible on the ground that the submission to arbitration was chargeable with an eight anna stamp under section 1, Art. 5, Stamp Act, as an agreement not otherwise provided for, the Court of Appeal *held* that the Court was not prepared to question the practice on the materials before it, and that the submission should be treated as duly stamped. 17 C.W.N. 395=40 C. 219=18 Ind. Cas. 978. R

## B.—INSTRUMENTS NOT FALLING UNDER ART. 5 (c).

## (1) Bought and sold notes—Agreement to refer to arbitration—Stamp duty.

The contract in this case was comprised in bought and sold notes, each signed by the brokers and stamped under art. 43 of the Stamp Act with a stamp of two annas. This contract contained a number of conditions one of which constituted the submission to arbitration. *Held* that the agreement to refer any dispute whatever arising out of the contract to arbitration is a part of the contract itself, and not a 'distinct matter' within the meaning of S. 5 of the Stamp Act, and that the documents together making the contract were not chargeable with duty otherwise than as broker's notes under art. 43 of that Act. (15 M. 150, F.; 18 C.W.N. 63; 18 C.W.N. 297=36 C. 388, Diss.; 19 B. 32, R.) 39 C. 669=16 Ind. Cas. 153. S

## 1.—“If not otherwise provided for”—(Continued).

## B.—INSTRUMENTS NOT FALLING UNDER ART. 5 (c)—(Continued).

## (2) Letters authorizing arbitration.

Letters written by parties authorising arbitrators to arbitrate between them do not require to be stamped as agreements. 19 B. 32. T

## (3) Agreement of reference to arbitration—Subsequent document nominating another arbitrator in place of the one who declined to act—No stamp necessary.

Where there was a duly stamped document, embodying a reference to arbitration, a subsequent document substituting another arbitrator in place of the one who declined to act does not require any stamp. 28 C.W.N. 871. U

## (4) Liability to stamp duty of agreement by correspondence—Fiscal enactment—Construction.

Where an agreement for the sale of certain shares is contained in a number of letters which passed between the parties, none of them requires to be stamped under art. 5 (a), sch. I of the Stamp Act, 1879, and they are not inadmissible in evidence for want of a stamp. The Stamp Act being a fiscal enactment, the intention to tax a particular instrument must appear in terms clear and positive, and in case of doubt, the construction must be in favour of the subject. 13 M. 255 [R., 111 P.L.R., 1907=71 P.R. 1906]. V

## (5) Assignment in trust of coffee crop on an estate.

An instrument by which one person assigned to another the whole crop of coffee upon a certain estate upon trust, *inter alia*, to secure the repayment of a sum advanced, *held* to be a mortgage liable to duty under art. 40 and not an agreement under this clause. 8 M. 104. W

## (6) Promissory note.

An instrument evidencing an agreement to pay a certain sum of money with interest on demand is a promissory note and is therefore not liable to be charged as an agreement under this clause. 4 Bom. L.R. 912. X

## (7) Account book entry—Undertaking to pay with interest—Promissory note or agreement—Stamp duty payable.

The question whether the document is chargeable as an agreement under Art. 5 (c) or as a promissory note under Art. 49 of the Stamp Act, depends on the matter in the writing in excess of that included in the definition. If this excess matter is mere surplage it does not alter the character of the document and it is a promissory note. 9 S.L.R. 150=32 Ind. Cas. 582. Y

## (8) Mere offer or request.

A—not amounting to a complete contract is not liable to duty. 27 M. 1 (F.B.); 13 B. 669; 23 M. 156 (Foot-note). Z

## (9) Petition of compromise presented to Court.

A petition, stamped as an agreement, signed by the parties to a suit and presented by them to a Court informing the Court that they had entered into an agreement and praying for removal of their suit from file, *held* chargeable with duty under art. 1 (b), Sch. II of the Court-Fees Act and not to any duty under this article. 8 M. 15. A

## (10) Bond—Agreement to lend money—Transfer of mortgage.

The transaction comprised in a document, consisted of transfer of mortgage by one S to the A company, and an agreement *inter alia* that the company should lend money at the request of S, for making improvements, additions and repairs to the buildings and machinery of the H Mills up to an unascertained though ascertainable amount, and also such money as might be required for working the said Mills. On the question as to the amount of Stamp duty leviable on the document. *Held*, that the document was liable to duty as a transfer of mortgage and as an agreement. An agreement to lend money does not create an obligation to pay money within the meaning of S. 2 (5) (b) of the Stamp Act, 1899, and is not chargeable as a bond. 11 Bom. L.R. 386=33 B. 426=2 Ind. Cas. 432. B

1.—“If not otherwise provided for”—(Concluded).

B.—INSTRUMENTS NOT FALLING UNDER ART. 5 (c)—(Concluded).

- (11) Stamp Act X of 1882, Sch. A, Art. 1—Promise for re-payment of grain—Stamp duty.

A document in the form of a pro-note, for the repayment of a certain quantity of grain, requires a stamp of one rupee under art. 1, sch. A of the Stamp Act, X of 1882. 6 B.H. C.A.C. 107. C

- (12) Combination of “*Nokurnama*” and Security bond.

A —is chargeable with a Stamp-duty of Rs. 5-8-0. Rupees 5 for the security bond under Art. 57 (c) and 0-8-0 for the *Nokurnama* under Art. 5 (c). A.I.R. (1924) Nag. 408 (2). D

2.—“Exemption (a)—...for...goods.”

- (1) ‘Goods or merchandise,’ meaning of.

The expression ‘goods or merchandise’ is not an equivalent for moveable property, but is borrowed from the English Stamp Act, the language of which is again taken from that of the Statute of Frauds. 22 B. 785 at p. 787. E

See further the same case noted under S. 2 (10), *supra*, *Compare*, also, 13 B. 87.

- (2) Agreement relating to the sale of goods.

The exemption in —covers the case of a document which purports to be an agreement to sell goods, the price to be paid one month after the execution of the agreement, and the goods to be at the risk of the purchaser on the execution of the agreement, and the goods to be at the risk of the purchaser on the execution of the document. If goods not removed as stipulated, it was agreed they should become the property of the seller. 10 M. 27 (F.B.). F

A.—AGREEMENT FALLING UNDER EXEMPTION (a).

- (1) Agreement for sale and purchase of salt.

An agreement in writing for the sale and purchase of salt for a price to be paid at a future date was held to fall within the exemption. 10 M. 27. G

- (2) Agreement for sale of goods.

An agreement for the sale of goods does not require a stamp although it contains provisions as to the warehousing and insurance of the goods previous to delivery. 15 M. 150 [R., 36 C. 736]. H

- (3) Sale of standing trees to be cut in future.

A sale of standing trees containing a condition against the cutting thereof at once but stating that they might be cut and removed by the vendee at a future date to be named by the vendor need not be stamped as a conveyance. It is a memorandum relating to sale of “goods and merchandise” falling within the above exemption. 22 B. 785. I

- (4) Attested agreement to deliver merchandise.

An agreement to deliver merchandise for consideration under a penal clause providing against the breach of the covenant is not a bond as defined in S. 2 (5) (c), so as to be chargeable *ad valorem* under Art. 15, even though it be attested by witnesses. Such an instrument is an agreement under Art. 5 (c) and falls within exemption (a) of the same Article. 9 Bur. L.T. 111=33 Ind. Cas. 920=8 L.B.R. 382. J

.B.—AGREEMENT NOT FALLING UNDER EXEMPTION (a).

- (1) Note or memorandum chargeable under Art. 43.

Documents in the nature of a note or memorandum chargeable under art. 43, *infra*, could not be regarded as exempt from stamp duty on the ground that they might also be regarded as “memoranda of agreements for or relating to the sale of goods or merchandise” within this exemption. 14 B. 102 at p. 106. See further the same case noted under Art. 43, *infra*. K

2.—“*Exemption (a)—...for...goods*”—(Concluded).**B.—AGREEMENT NOT FALLING UNDER EXEMPTION (a)—(Concluded).**

- (2) **Agreement comprising or relating to several distinct matters—Jurisdiction of Court to admit document affixed with stamp of wrong description on payment of penalty.**

An agreement styled as one for sale of fish was executed by 81 residents of a village in order to raise a loan of Rs. 250 for a common purpose. The fish was to be supplied by each in a specified manner in discharge of the amount.

*Held* that the agreement did not relate to “the sale of goods or merchandise exclusively” within the meaning of exemption (a) to art. 5 of the Stamp Act; that the agreement was not one which comprised or related to several distinct matters and was consequently liable to be stamped only as a single agreement and that the Courts have jurisdiction to admit a document affixed with a stamp of a wrong description on payment of penalty as provided by S. 35 (a) of the Stamp Act. 19 M.L.J. 35=5 M.L.T. 195=2 Ind. Cas. 481. L

- (3) **“Agreement for sale of goods,” what is.**

An instrument, which acknowledges the receipt of a certain sum of money, and further, in consideration of this payment, agrees to sell paddy at the harvest time at a certain rate, is not an agreement “for, or relating to the sale of goods exclusively,” and is not therefore exempt under cl. (a) of the exemptions to art. 5. So it should be stamped eight annas under art. 5 (b). Per *Hartnoll, J.*:—“Even supposing this instrument is an agreement for the sale of goods, it seems to be more than that and to be an acknowledgment of a debt.” 5 L.B.R. 157=5 Ind. Cas. 986 (F.B.). (15 M. 152, R.) M

- (4) **Agreement to settle debt by delivery of grain—Sale of goods.**

An instrument acknowledging the receipt of a sum of money and agreeing to settle the debt by a subsequent delivery of grain is not an agreement relating to the sale of goods exclusively and therefore does not come under exemption (a) to this article. 3 Bur. L.T. 25=5 L.B.R. 157=5 Ind. Cas. 986 (F.B.) (15 M. 152, R.).

**[1] 6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE, that it is say, any instrument evidencing an agreement relating to—**

- (1) the deposit of title-deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), or,
- (2) the pawn or pledge of moveable property,

where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced<sup>1</sup> or to be advanced by way of loan or existing or future debt—

*Imperial.*—The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.

*For Bengal, Madras, Punjab and Assam.*—

*For U. Prov.*—

	If drawn singly.	If drawn in set of two for each part of the set.	If drawn in set of three for each part of the set.	Rs. A. P.			Rs. A. P.			Rs. A. P.			Rs. A. P.		
				Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
(i) when the amount of the loan or debt does not exceed Rs. 200	0	4	6	0	3	0	0	1	6	0	3	0	0	2	0
(ii) when it exceeds Rs. 200	0	9	0	0	4	6	0	3	0	0	8	0	0	4	0
but does not exceed Rs. 400	0	13	6	0	7	6	0	4	6	0	12	0	0	6	0
" 600	1	2	0	0	9	0	0	6	0	1	0	0	0	8	0
" 800	1	6	6	0	12	0	0	7	6	1	4	0	0	10	0
" 1,000	1	11	0	0	13	6	0	9	0	1	8	0	0	12	0
" 1,200	2	4	0	1	2	0	0	12	0	2	0	0	1	0	0
" 1,400	3	6	0	1	11	0	1	2	0	3	0	0	1	8	0
" 1,600	3	6	0	3	6	0	2	4	0	6	0	0	3	0	0
" 2,500	6	12	0	3	6	0	2	4	0	9	0	0	4	8	0
" 5,000	10	0	0	5	1	0	3	6	0						
[Rs. 10 2 0 for Punjab and Madras only.]															
" 7,500	13	8	0	6	12	0	4	8	0	12	0	0	6	0	0
" 10,000	20	4	0	10	2	0	6	12	0	18	0	0	9	0	0
" 15,000	27	0	0	13	8	0	9	0	0	24	0	0	12	0	0
" 20,000	33	12	0	16	14	0	11	4	0	30	0	0	15	0	0
" 25,000	40	8	0	20	4	0	13	8	0	36	0	0	18	0	0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000,	13	8	0	6	12	0	4	8	0	12	0	0	6	0	0



(b) if such loan or debt is repayable not more than three months from the date of such instrument.	<i>Imperial.</i> —Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.  <i>For Bengal, Madras, Punjab, Assam.</i> —Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured. [Note: The words "stamp duty of a quarter anna should be reckoned as half anna and three-quarter anna as one anna" are added by Madras Act VI of 1923.]
<i>Exemption.</i>	
Instrument of pawn or pledge of goods if unattested.]	<i>For U. Prov.</i> —Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.

### Legislative Changes—Imperial.

[1] This article was substituted by Act XV of 1904.

### NOTES.

#### Old Acts:—

This article was—Act I of 1879, Sch. i, art. 29.

Act XVIII of 1869, Sch. ii, art. 21.

Act X of 1862, Sch. A, art. 13.

#### General.

#### (1) Arts. 29, 44, Sch. I (Act I of 1879)—Distinction between.

Art. 44, Sch. I, Act I of 1879, deals with cases in which the interest in, or right over property, is transferred, whether possession is given or not for the purposes of the mortgage. Art. 29 (this Art.) is limited to cases where moveable property only is given in pledge, coupled with an agreement securing the re-payment of a loan. 21 C. 241; 8 M. 104. Q

#### (2) Agreement not securing any amount, if governed by Art. 5 or 6.

An agreement which does not secure "any amount" cannot come under art. 6, but must come under the residuary Art. 5 of the Stamp Act. 4 L.W. 472=31 M.L.J. 347=(1916) 2 M.W.N. 221=35 Ind. Cas. 864. P

#### I.—"Advanced or to be advanced by way of loan, etc."

#### (1) Scope.

Prior to the introduction of the words "advanced or to be advanced by way of loan or an existing or a future debt" into cl. (2) of this article, it was held to apply only to an instrument evidencing an agreement to secure the repayment of a loan, executed at the time the loan was made, and not to the case of an agreement by way of mortgage of a valuable security to secure a pre-existing debt. 27 C. 587=4 C.W.N. 524. Q

#### (2) Bond—Agreement to lend money—Transfer of mortgage.

The transactions comprised in a document consisted of a transfer of mortgage by one S.D.K. to the Ahmedabad Fine Spinning and Weaving Company and an agreement *inter alia* that the company should lend money at the request of S.D.K. for making improvements, additions and repairs to the buildings and machinery of the Huvardhak Cotton Mills up to an unascertained though ascertainable amount and also such money as might be required for working the said mills. On the question as to the amount of stamp duty leviable on the document, held that the document was liable to duty as a transfer of mortgage and as an agreement. 33 B. 426=11 Bom. L.R. 386=2 Ind. Cas. 432. R

<b>7. APPOINTMENT IN EXECUTION OF A POWER</b> <sup>1</sup> , whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.	<i>Imperial</i> ... Rupees Fifteen. <i>For Bengal, Madras, Punjab, Assam.</i> Rupees Twenty-five. <i>For Bombay.—</i> (a) of Trustees ... Fifteen Rupees only. (b) of Property, moveable or immoveable. Thirty Rupees only. <i>For United Provinces.—</i> (a) Where the value of the property does not exceed Rs. 1,000. Rupees Fifteen only. (b) In any other case. Rupees Twenty-five only.
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## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 6.

—XVIII of 1869, Sch. ii, art. 35.

## 1.—“Appointment in execution of a power.”

Panchanama removing person from shebaitship and appointing another shebait —Stamp necessary for panchanama.

- (a) Where a person's will not only gave the punch power to enquire into the misconduct of a shebait and remove him from the office but also to appoint a new shebait, it requires a stamp of Rs. 15 under this clause. 23 C.W.N. 401=51 Ind. Cas. 884. S
- (b) For a case where an instrument *qua* the Bowla Fund was considered as one coming under this article. See 35 B. 444=13 Bom. L. R. 646=11 Ind. Cas. 982.

**8. APPRAISEMENT OR VALUATION** made otherwise than under an order of the Court in the course of a suit—

- (a) where the amount does not exceed Rs. 1,000. *Imperial, Bombay, C. Prov., U. Prov.—*  
 The same duty as a Bond (No. 15) for such amount.  
*For Bengal, Madras, Punjab, Assam.—*  
 The same duty as a Bottomry Bond (No. 16) for such amount.

(b) in any other case	... Imperial	... Rupees Five.
	<i>For Bombay, Punjab</i>	... Rupees Ten.
<i>Exemptions.</i>	<i>For C. Prov., Bengal, Madras, Assam,</i>	
(a) Appraisalment or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	<i>U. Prov.</i>	... Rupees Seven and annas eight.
(b) Appraisalment of crops for the purpose of ascertaining the amount to be given to a landlord as rent.		

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art 7.

—XVIII of 1869, Sch. i, art. 21.

Exemption (a) to the above corresponds to art. 3, Sch. ii of Act I of 1879.

## 9. APPRENTICESHIP-

DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).

*Imperial*

... Rupees Five.

*For Bengal, Madras, Assam, U. Prov.*  
Rupees Seven and annas eight.

*For Bombay* ... Rupees Ten.

*Exemption.*

Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 31.

Exemption to the above article corresponds to art. 12 (c), Sch. ii of Act I of 1879.

10. ARTICLES OF ASSOCIATION <sup>1</sup> OF a company.

*Imperial* ... Rupees Twenty-five.

*For Bengal, Madras, C. Prov., U. Prov.,  
Assam* ... Rupees Fifty.

*For Bombay—*

*Exemption.*

Articles of any Association not formed for profit and registered under section 29 of the Indian Companies Act, 1882.

See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).

(a) Where the company has no share capital or the nominal share capital does not exceed Rs. 2,500 Rupees Twenty-five.

(b) Where the nominal share capital exceeds Rs. 2,500 but does not exceed Rs. 1,00,000 Rupees Fifty.

(c) Where the nominal share capital exceeds Rs. 1,00,000 Rupees One hundred.

*For Punjab—*

(a) Where the authorized share capital does not exceed Rs. 1,00,000...Rupees Twenty-five.

(b) In other cases...Rupees Fifty.

NOTES.

Old Acts :—

This article was—Act I of 1879, Sch. i, art. 8.

—XVIII of 1869, Sch. ii, art. 33.

Exemption to the above corresponds to art. 2, part 2, App. (D), Sch. ii of Act I of 1879.

1.—“Articles of association.”

Articles of association.

A document styled as ‘ articles of association ’ was drawn up by a company on a special resolution in supersession of the ‘ articles ’ it already possessed. On its happening to be impounded as unstamped by the Registrar of Joint Stock Companies, *held*, that the Indian Companies Act did not contemplate any such thing as new articles of association and that the document in question was nothing more than the record of a special resolution and as such did not require to be stamped. 22 A. 131=20 A.W.N. 15. U

11. ARTICLES OF CLERK-SHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.
- |                       |  |
|-----------------------|--|
| <i>Imperial ...</i>   | Rupees Two hundred and fifty.          |
| <i>For Madras ...</i> | Rupees Three hundred and seventy-five. |

ASSIGNMENT. See CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.

ATTORNEY. See ENTRY AS AN ATTORNEY (No. 30), and POWER OF ATTORNEY (No. 48).

AUTHORITY TO ADOPT. See ADOPTION-DEED (No. 3).

#### NOTES.

##### Old Acts :—

This article was—Act I of 1879, Sch. i, art. 9.  
—XVIII of 1869, Sch. II, art. 41.

12. AWARD<sup>1</sup>, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—

- |  |   |
|--|---|
| (a) Where the amount or value of the property to which the award relates as set forth in such award does not exceeds Rs. 1,000 ; | <p><i>Imperial, Bengal, Punjab, Assam, U. Prov.</i>—The same duty as a Bond (No. 15) for such amount.</p> <p><i>For C. Prov.</i>—The same duty as a Bond (No. 15) for such amount or value.</p> <p><i>For Madras.</i>—The same duty as a Bottomry Bond (No. 16) for such amount.</p> <p><i>For Bombay.</i>—(a) and (b)—The same duty as a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award <i>subject to a maximum of Rupees Twenty.</i></p> |
|--|---|

(b) in any other case	... Imperial.—	Rupees Five.
	For C. Prov.—	Rs. 7-8 0.
	For Bengal, Punjab, Assam.—(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000	Rs. 7-8-0
<i>Exemption.</i>		
Award under the Bombay District Municipal Act, 1873, section 81, or the Bombay Hereditary Offices Act, 1874, section 18.	And for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000—8 annas subject to a maximum of Rupees Fifty.	
	For Madras.—(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000	Rs. 10-0-0
	And for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000—8 annas subject to a maximum of Rupees Fifty.	
	For U. Prov.—(b) If it exceeds Rs. 1,000 but does not exceed Rs. 5,000	Rs. 7-8-0
	(c) In any other case...	Rupees Ten.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 10.

—XVIII of 1869, Sch. i, art. 21.

Exemption to the above corresponds to art. 6 to Sch. ii of Act I of 1879.

## I.—“Award.”

## (1) Award under Art. 20, Sch. II, Civ. Pro. Code.

(a)—must be stamped. 181 P.W.R. 1913=290 P.L.R. 1913=66 P.R. 1913=20 Ind. Cas. 491. Y

(b) Unstamped ones may be admitted on payment of penalty and stamp duty. (Ibid). Y-1

(c) A copy of the same inadmissible in case the original is lost. 12 M. 331. W

## (2) Award securing an annuity.

By an award a sum of Rs. 5 per mensem was made payable to a certain person, but without any mention whether the sum was secured or intended to be secured to be heirs or representatives of the person to whom it was payable. Held that the award ought to be stamped as a document securing an annuity under S. 25, cl. (c) of Act I of 1879. A.W.N. (1896) 197. X

## (3) Award of luggis—Instrument of partition—Unstamped document—Stamp duty and penalty not tendered in Original Court—Admission of document by Appellate Court.

Where the stamp duty and penalty on an award by luggis, which fell under the description of “instrument of partition” as defined in the Indian Stamp Act, 1899, was not tendered in the Original Court, an appellate Court could not admit the document in evidence even if the stamp and penalty had been tendered. (4 C. 213. F.) 1 L.B.R. 64. Y

## 1.—“Award”—(Concluded).

## (4) Arbitration clause in a contract.

—must be stamped as agreement not otherwise provided for. 40 C. 219 = 17 C.W.N. 395 = 18 Ind. Cas. 978 ; 39 C. 669 = 16 Ind. Cas. 153. Z

## (5) Memorandum of particulars of property partitioned.

Where, on a division of the properties of a joint family by certain arbitrators, an instrument was drawn up, which contained a list of the share of one of the members of the family and also recited that the parents of the family were to enjoy certain lands and that the outstanding debts should be divided at a future date, *held*, that the instrument was neither an award nor a partition deed but only a memorandum of the particulars of property allotted thereby. 7 M. 385. See the same case noted under S. 2 (15), *supra*. A

## (6) Letter by parties authorising arbitrators to arbitrate.

—need not be stamped. 19 B. 32. B.

### 13. BILL OF EXCHANGE [as defined by S. 2 (2) and (3)] not being a BOND, bank-note or currency-note—

(a) Where payable on demand <sup>1</sup>. *Imperial—Anna One.*

[1](b) where payable otherwise than on demand <sup>2</sup> but not more than one year after date or sight—

	If drawn singly.			If drawn in set of two, for each part of the set.			If drawn in set of three, for each part of the set.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
if the amount of the bill or note does not exceed Rs. 200.	0	3	0	0	2	0	0	1	0
if it exceeds Rs. 200 and does not exceed Rs. 400.	0	6	0	0	3	0	0	2	0
if it exceeds Rs. 400 and does not exceed Rs. 600.	0	9	0	0	5	0	0	3	0
if it exceeds Rs. 600 and does not exceed Rs. 800.	0	12	0	0	6	0	0	4	0
if it exceeds Rs. 800 and does not exceed Rs. 1,000.	0	15	0	0	8	0	0	5	0
if it exceeds Rs. 1,000 and does not exceed Rs. 1,200.	1	2	0	0	9	0	0	6	0
if it exceeds Rs. 1,200 and does not exceed Rs. 1,600.	1	8	0	0	12	0	0	8	0
if it exceeds Rs. 1,600 and does not exceed Rs. 2,500.	2	4	0	1	2	0	0	12	0
if it exceeds Rs. 2,500 and does not exceed Rs. 5,000.	4	8	0	2	4	0	1	8	0
if it exceeds Rs. 5,000 and does not exceed Rs. 7,500.	6	12	0	3	6	0	2	4	0
if it exceeds Rs. 7,500 and does not exceed Rs. 10,000.	9	0	0	4	8	0	3	0	0

	If drawn singly.			If drawn in set of two, for each part of the set.			If drawn in set of three, for each part of the set.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
if it exceeds Rs. 10,000 and does not exceed Rs. 15,000.	13	8	0	6	12	0	4	8	0
if it exceeds Rs. 15,000 and does not exceed 20,000.	18	0	0	9	0	0	6	0	0
if it exceeds Rs. 20,000 and does not exceed 25,000.	22	8	0	11	4	0	7	8	0
if it exceeds Rs. 25,000 and does not exceed 30,000.	27	0	0	13	8	0	9	0	0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.]	9	0	0	4	8	0	3	0	0
(c) where payable at more than one year after date or sight.	The same duty as a Bond (No. 15) for the same amount.								

### Legislative Changes—Imperial.

[1] This clause was substituted by Act I of 1912, S. 2.

### NOTES.

#### Old Acts :—

This article was—Act I of 1879, Sch. i, art. 11.

—XVIII of 1869, Sch. ii, art. 1 and Sch. i, art. 1.

—X of 1862, Sch. A, art. 10.

—XXXVI of 1860, Sch. A, arts. 4 and 5.

### General.

#### Several sheets of stamped paper.

For a Bill of exchange —may be tacked together, only thing required is a portion shall be written on each sheet used. 23 C.W.N. 534 = 29 C.L.J. 305 = 51 Ind. Cas. 88. C.

#### I.—“Where payable on demand.”

##### (1) Post-dated cheque.

A post-dated cheque held chargeable as a bill of exchange payable on demand, whether to order or bearer. See 16 C. 432 noted under S. 35, *supra*. D.

##### (2) Bill of exchange payable on demand.

A written direction from a master to a servant for the payment of money belonging to the former in the hands of the latter cannot be regarded as ‘an order for payment of money’ within its meaning in S. 2 (3) and is therefore not a—. E.  
 \* 1 N.W.P.H.C. 143.

##### (3) Instrument ordering firm to pay certain sum to certain person or bearer—Bill of Exchange.

An instrument ordering payment of a certain sum by a firm to a certain person or bearer is a bill of exchange payable on demand and is chargeable with a duty of one-anna under art. 13. 47 Ind.Cas. 561 = 11 Bur.L.T. 87. E-1



## 1.—“Where payable on demand”—(Concluded).

- (4) **Bill of exchange**—First of exchange stamped with one anna—Whether stamp duty necessary on second exchange.

A second bill of exchange, payable on demand, does not require to be stamped with a stamp of one anna, when the first bill of exchange has been stamped with a stamp of one anna. 4 L.B.R. 320 (F.B.). F

## 2.—“Where payable otherwise than on demand.”

- (1) **Hundi.**

A *Hundi* for Rs. 380 payable otherwise than on demand cannot be stamped with an adhesive stamp because the stamp required is more than one anna. 2 M. 173. G

- (2) **Bill of Exchange.**

A bill of exchange of Rs. 500, payable otherwise than on demand, must be stamped with an impressed stamp of six annas and not with six one-anna receipt stamps, in which latter case it will be regarded as not ‘duly stamped.’ 8 C. 721=11 C.G.R. 310. H

- (3) **Agricultural lease—Agreement to hypothecate crops for payment of rent.**

An agricultural lease entered into by the cultivating tenants is exempt from stamp duty under exemption (a) to art. 35, Sch. I of the Stamp Act, 1899. Where a lease executed by tenants gave the landlord the sole right over the whole crop until rent was paid and the tenants agree not to alienate or otherwise do away with crops without landlord’s consent, until the rent was paid, the instrument is an agreement of hypothecation of moveable property by way of security for the repayment of a further debit, and as such was liable to the duty chargeable on a bill of exchange under Art. 13 (b). 44 Ind. Cas. 109. I

- (4) **Promissory note—Payable otherwise than on demand—Agreement.**

A document by which the executant undertakes to make certain specified payments towards the sum due and agrees that his failure to do so shall render him liable to forfeit any payments he may have made already, is not a promissory note payable otherwise than on demand but only an agreement and is stampable with eight annas only. 28 Ind. Cas. 300=8 L.B.R. 155. J

# 14. BILL OF LADING <sup>1</sup> (including a through bill of lading).

## Exemptions.

- (a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.

- (b) Bill of lading when executed out of British India and relating to property to be delivered in British India.

*Imperial*

... Annas Four.

*For Bengal, Madras, Assam, U. Prov.*  
—Annas Six.

*For Bombay, Punjab.*—Annas Eight.

*N.B.*—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 12.

—XVIII of 1869, Sch. ii, art. 9.

—X of 1862, Sch. A, art. 11.

—XXXVI of 1860, Sch. A, art. 6.

Exemption (a) to the above corresponds to art. 7, Sch. II of Act I of 1879.

(b) to the above corresponds to art. 3 (Part. 2, App. D) Sch. ii of Act I of 1879.

I.—“*Bills of lading.*”

## Bills of lading by Inland River Steam Navigation Company.

— for goods consigned with them at one place for being delivered at another are *bills of lading*. The fact that they do not relate to the carriage of goods by a sea-going vessel but to inland navigation only cannot alter the nature and character of the documents. 30 C. 565. K

15. BOND <sup>1</sup> [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court Fees Act, 1870,—

where the amount or value <sup>2</sup> secured does not exceed Rs. 10 ;

Imperial— Annas Two.

For Bombay, C. Prov., Bengal,  
Madras, Punjab, Assam,  
U. Prov.—Annas Two.

where it exceeds Rs. 10 and does not exceed Rs. 50.

Imperial— Annas Four.

For Bombay, C. Prov., Bengal,  
Madras, Punjab, Assam,  
U. Prov.—Annas Four.

where it exceeds Rs. 50 and does not exceed Rs. 100.

Imperial— Annas Eight.

For Bombay, C. Prov., Bengal,  
Madras, Punjab, Assam,  
U. Prov.—Annas Eight.

where it exceeds Rs. 100 and does not exceed Rs. 200.

Imperial— Rupee One.

For Bombay, C. Prov., Bengal,  
Punjab, Assam, U. Prov.—  
Rupee One.

For Madras Rupee One and  
annas four.

where it exceeds Rs. 200 and does not exceed Rs. 300.	<p><i>Imperial</i>—Rupee One and annas eight.</p> <p><i>For Bombay</i>—Rupees Two and annas Four.</p> <p><i>For U. Prov.</i>—Rupee one and annas twelve.</p> <p><i>For C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupee one and annas fourteen.</p>
where it exceeds Rs. 300 and does not exceed Rs. 400.	<p><i>Imperial</i>—Rupees Two.</p> <p><i>For Bombay.</i>—Rupees Three.</p> <p><i>For C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Two and annas eight.</p> <p><i>For U. Prov.</i>—Rupees Two and annas seven.</p>
where it exceeds Rs. 400 and does not exceed Rs. 500.	<p><i>Imperial</i>—Rupees Two and annas eight.</p> <p><i>For Bombay.</i>—Rupees Three and annas twelve.</p> <p><i>For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.</i>—Rupees Three and annas two.</p>
where it exceeds Rs. 500 and does not exceed Rs. 600.	<p><i>Imperial</i>—Rupees Three.</p> <p><i>For U. Prov.</i>—Rupees Three and annas thirteen.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Four and annas eight.</p>
where it exceeds Rs. 600 and does not exceed Rs. 700.	<p><i>Imperial</i>—Rupees Three annas eight.</p> <p><i>For U. Prov.</i>—Rupees Four and annas eight.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Five and annas four.</p>

where it exceeds Rs. 700 and does not exceed Rs. 800.	<p><i>Imperial</i>—Rupees Four.</p> <p><i>For U. Prov.</i>—Rupees Five and annas three.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Six.</p>
where it exceeds Rs. 800 and does not exceed Rs. 900.	<p><i>Imperial</i> — Rupees Four and annas eight.</p> <p><i>For U. Prov.</i>—Rupees Five and annas fourteen.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees six and annas twelve.</p>
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	<p><i>Imperial</i>—Rupees Five.</p> <p><i>For U. Prov.</i>—Rupees six and annas nine.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees seven and annas eight.</p>
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	<p><i>Imperial</i>— Rupees Two and annas eight.</p> <p><i>For U. Prov.</i>—Rupees Three and annas four.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Three and annas twelve.</p>
<p>See ADMINISTRATION-BOND (No. 2),          BOTTOMRY BOND (No. 16),          CUSTOMS BOND (No. 26), IN-          DEMNITY-BOND (No. 34), RES-          PONDENTIA BOND (No. 56),          SECURITY BOND (No. 57).</p>	

*Exemptions.*

Bond, when executed by—

- (a) headman nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;

- (b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 13.

—XVIII of 1869, Sch. i, art. 5.

—XXXVI of 1860, Sch. A, art. 8.

Exemption (a) to the above corresponds to art. 8 (b) } of Sch. II of Act I of 1879.  
(b) do. do. 8 (c) }

## 1.—“Bond”.

## (1) Agreement in lease to pay rent of previous year.

The agreement in a lease to pay a certain thing on account of balance for the previous year amounts to a bond, and should be stamped as such under this article. 7 Bom. L.R. 929. L.

## (2) Agreement to remunerate conduct of litigation.

An agreement to pay back all sums of money that might be advanced for the purpose of a litigation then pending and to pay, in case of success, Rs. 50,000 by way of remuneration held to be a bond within the meaning of S. 2 (5) and chargeable with duty under this article. 9 C.W.N. cxxiii. M

## (3) Bond for repayment of twice the amount borrowed.

A bond for a loan of Rs. 100 stipulated for repayment of twice the amount, including Rs. 100 for interest in certain *kists* and that in default of payment of any one *kist*, the whole amount of all the *kists* with interest should be payable. Held, that S. 23 of the Act had no application, that the amount secured by the bond was Rs. 200 and the bond must be stamped accordingly. 26 C. 179. N

## (4) Suit on instalment bond solehnamah filed by defendant in, not petition under Art. 10, Act XXVI of 1869—Stamp duty—Agreement.

The first of the two cases referred for the opinion of the High Court by the Judge of the Small Cause Court was a suit on a bond for Rs. 40 with interest. A solehnamah was filed by the defendant by which he admitted that Rs. 25 was due, and agreed to pay the same by instalments. The High Court agreeing with the Small Cause Judge held that the solehnamah was not a petition but an agreement, so that the proper stamp duty was not one anna but two annas as for an instalment bond. The second case was also a suit on a bond after filing which plaintiff put in a razeenamah stating that the defendant had satisfied his claim and so he withdrew the suit. This razeenamah was rather of the nature of a petition than of an agreement. Plaintiff had already paid a stamp duty on the bond, and the razeenamah was simply in the nature of an application stating that the money due on that bond had been satisfied. 8 W.R. 214. O

## (5) Acknowledgment signed by executant and attested by witnesses.

An acknowledgment of a debt, signed by the executants and attested by a witness, under which the creditor was to receive the balance from the executants was held to be a bond as the executants had obliged themselves thereby to pay the money. 35 P. R. 1903=101 P.L.R. 1903. P

## 1.—“Bond”—(Continued).

## (6) Instrument attested by witnesses.

- (a) An instrument by which the executant obliged himself to pay money to another and which was not made payable to order or bearer but was attested by witnesses was *held* to be a bond. 29 B. 82=6 Bom. L.R. 841. Q
- (b) Agreement to deliver paddy, after receipt of earnest money, attested by witnesses and providing for loss for breach, *held* not a bond. 9 Bur. L.T. 111=33 Ind. Cas. 920=9 L.B.R. 252. Q-1

## (7) Bond—Agreement.

An instrument reciting that A has sold certain premises to B for Rs. 620 and has received Rs. 35 for earnest money, and that he will execute a sale deed on receipt of the balance of the purchase-money and will not retract, is a conditional bond falling under art. 12, Sch. A, Act X of 1862, on which the stamp duty payable is four annas. P.R. 1866, S.C.O. Rul. No. 4. R

## (8) Bonds by sureties.

Whereon an agreement having been taken from a contractor by the Public Works Department, the contractor's sureties gave bonds, for the performance, by him, of his agreement, the bonds were *held* to be chargeable under art. 5 Sch. I of Act XVIII of 1869 which corresponded to the present article. S

## (9) Bond for earnest money received—Hypothecation of produce as collateral security.

Where, under a document, the obligor borrowed money from the obligee which was to be treated as earnest money for an undertaking by the former to supply a certain quantity of sugar to the latter, and as collateral security the obligor hypothecated the produce in his field of sugarcane, without fixing any value therefor, the instrument was *held* to be a bond and also to be a mortgage. 9 A. 585=A.W.N. (1887) 190. T

## (10) Security bonds re Privy Council Appeals.

Security bonds for costs of appeal to the Privy Council *held* to come within art. 12, Sch. A, Act X of 1862 which corresponded to this article. 5 W.R. Mis. 47. U

## (11) Security bond for stay of execution, if requires stamp.

Security bonds taken on an order for stay of execution are not bonds made by order of the Court within the meaning of art. 6, Sch. 2 of the Court Fees Act. They are bonds which ensure to the benefit of the Secretary of State or of the parties in the case and must be stamped in accordance with the Stamp Act and cannot be written on plain paper bearing only a Court-fee of 8 annas. 21 C.W.N. 1150=43 Ind. Cas 376. Y

## (12) Security bond—For production of attached property—Duty payable.

A security bond filed in Court and given for production of certain attached property is governed by art. 6 of Sch. 2 of the Court Fees Act and the proper stamp is 8 annas Court-fee stamp. 49 C. 997=68 Ind. Cas. 731. W

## (13) Bond given for production of attached moveables—“One given in pursuance of an order made under the Code of Civil Procedure”—Court-fee stamp of eight annas.

A bond executed by a defendant and two sureties for the production, when called for, of the attached moveables left in their custody, may be said to be given in pursuance of an order made by a Court under a section of the Code of Civil Procedure. Consequently the bond is ‘otherwise provided by the Court Fees Act’ (See Sch. II, art. 6, Court Fees Act, and Sch. I, art. 15—Stamp Act). The stamp leviable thereon is eight annas Court-fees stamp, and not an *ad valorem* stamp under the Stamp Act. 24 M.L.J. 637=20 Ind. Cas. 775 (F.B.). X

## 1.—“Bond”—(Concluded).

## (14) Agreement to pay damages:

- (a) An instrument containing a covenant to do a particular act, the breach of which is to be compensated in damages, does not require to be stamped as a bond but requires an eight anna stamp only. 9 C. 284. Y
- (b) A document by which a person agreed to serve a company for a fixed time under a penalty of a fixed sum of money in case of breach was held to be an agreement merely and not to require to be stamped as a bond. 14 M. 18. Z

## (15) Acknowledgments not becoming Bonds.

Instruments constituting acknowledgments falling under art. 1, do not become bonds chargeable under this article merely because of their containing provisions for interest and happening to be attested by witnesses. To be chargeable as a bond, a document must, by itself, create an obligation to pay money. 22 C. 757; 13 M. 147; 10 M. 158. A

## 2.—“Amount or value secured.”

## (1) Value of grain agreed to be delivered.

Where the amount secured by a bond was the value of the paddy agreed to be made over to the creditor, as fixed by the instrument itself, held, if there be a rise in the price of paddy at the time of the institution of a suit thereon, it would not make the instrument an instrument which is not sufficiently stamped under the Act. 13 C. 268. B

## (2) Agreement to retain money advanced to pay damages.

An instrument by which a company agreed to pay £120,000 in five instalments for the cost of constructing a Railway on the terms that debentures on the Railway should be handed over to the Company on each payment, that, in default, the company should be entitled not only to sell the debentures and recover damages but should also be at liberty to retain £10,000 was held liable to stamp duty as a bond for £120,000 and not on the difference between the £120,000 and the above £10,000, 15 M. 193. C

## (3) Relinquishment of a claim to immoveable property—Value over Rs. 100—Whether release.

A formal remunication of a claim to immoveable property of the value of over Rs. 100 is a release which requires a five-rupee stamp, and requires registration, whether the claim is legally valid or not. 7 N.L.R. 36=10 Ind. Cas. 733 (95 P.R. 1894; 96 P.R. 1895; 30 B. 304, R.). D

- 16. BOTTOMRY BOND** 1, Imperial, Bombay, C. Prov., U. Prov.—The same duty as a Bond (No. 15) for the same amount.
- that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.
- For Bengal, Madras, Punjab, Assam :—
- |   |            |
|---|------------|
| Where the amount or value secured does not exceed Rs. 10. | As. 3.     |
| Where it exceeds Rs. 10 and does not exceed Rs. 50.       | As. 6.     |
| Where it exceeds Rs. 50 and does not exceed Rs. 100.      | As. 12.    |
| Where it exceeds Rs. 100 and does not exceed Rs. 200.     | Rs. 1-8-0. |
| Where it exceeds Rs. 200 and does not exceed Rs. 300.     | Rs. 2-4-0. |
| Where it exceeds Rs. 300 and does not exceed Rs. 400.     | Rs. 3-0-0  |

Where it exceeds Rs. 400 and does not exceed Rs. 500.	Rs. 3-12-0
Where it exceeds Rs. 500 and does not exceed Rs. 600.	Rs. 4-8-0.
Where it exceeds Rs. 600 and does not exceed Rs. 700.	Rs. 5-4-0.
Where it exceeds Rs. 700 and does not exceed Rs. 800.	Rs. 6-0 0.
Where it exceeds Rs. 800 and does not exceed Rs. 900.	Rs. 6-12-0.
Where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Rs. 7-8-0.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Rs. 3-12-0.

## NOTES.

## Old Acts :—

- This article was—Act I of 1879, Sch. i, art. 15.  
 —XVIII of 1869, Sch. i, art. 6.  
 —X of 1862, Sch. A, art. 14.  
 —XXXVI of 1860, Sch. A, art. 9.

1.—“*Bottomry bond.*”

**Bottomry bond—Hypothecation of vessel—Covenant to pay—Uncertainty of agreement—Construction.**

Suit on a bond hypothecating a vessel. The owner undertook personal liability up to a stipulated time. *Held* that the document was not a bottomry bond.  
 22 M. 26=8 M.L.J. 159. E

17. CANCELLATION <sup>1</sup> — *Imperial.*—Rupees Five.

Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Seven and annas eight.

*See also* RELEASE (No. 55),  
 REVOCATION OF SET-  
 TLEMENT (No. 58-B),  
 SURRENDER OF LEASE  
 (No. 61), REVOCATION  
 OF TRUST (No. 64-B).

## NOTES.

## Old Acts :—

*No corresponding provision.*

1.—“*Cancellation.*”

**Cancellation and re-sale—Non-disclosure, liability for.**

*See* 32 A. 171=7 A.L.J. 110=11 Cr. L.J. 204=5 Ind. Cas. 697 under S. 64, *supra*, F



**18. CERTIFICATE OF SALE**

(in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer—

- |   |   |
|---|---|
| (a) where the purchase-money <sup>1</sup> does not exceed Rs. 10;       | <i>Imperial.</i> —Annas Two.<br><i>For Bombay.</i> —Annas Four.<br><i>For C. Prov., Bengal, Madras, Punjab, Assam.</i> —Annas Three.  |
| (b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25; | <i>Imperial.</i> —Annas Four.<br><i>For Bombay.</i> —Annas Eight.<br><i>For C. Prov., Bengal, Madras, Punjab, Assam.</i> —Annas Six.  |
| (c) in any other case   | <i>Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only. |

**NOTES.****Old Acts :—**

This article was—Act I of 1879, Sch. i, art. 16.

**General.**

- (1) Stamp for sale certificate inadvertently punched by officer of Court.  
 — could be used. 18 M. 235. G
- (2) Fresh certificate of sale.  
 — refused by Civil Court, where deficiency in stamp and penalty were ordered to be recovered. 9 B. 526. H

**1.—“Purchase-money.”**

- (1) Property subject to incumbrances sold.

(a) Where property subject to an incumbrance is sold by auction in execution of a decree, the sale certificate should be stamped according to the amount of the purchase-money and not according to the amount of the purchase-money together with the incumbrances. 15 A. 107=A.W.N. (1892) 243; 10 C. 92=13 C.L.R. 164. I

## I.—“Purchase-money”—(Concluded).

- (b) The stamp duty payable on a certificate of sale was held not to be governed by S. 24 but to come under cl. 16, Sch. i of Act I of 1879 corresponding to this article. 5 M. 18 (F.B.) (F., 10 C. 92). J

## (2) Certificate of sale—Purchase of equity of redemption—Duty.

The stamp on a certificate of sale is regulated by the amount of the purchase-money; it is to bear the same stamp as a conveyance for a consideration equal to the amount of the purchase-money. It is one thing to make a sale subject to a condition to discharge a mortgage, and another to sell the property subject to a mortgage, that is, to sell the interest remaining in the mortgagor without imposing on the purchaser any obligation. 7 M. 421 (F.B.). K

## Old Law.

## Property sold subject to mortgage, etc.

- (a) A certificate of sale, granted to the purchaser of property sold by public auction subject to a mortgage, is chargeable with stamp duty not only on the purchase-money paid but also in respect of the principal sum due on the mortgage, the arrears of interest due thereon not being included. 5 B. 470 (F.B.) [Not F., 10 C. 92 = 13 C.L.R. 164; 7 M. 421 (F.B.); F., 15 B. 532; R., 6 O.C. 76; 1 S.L.R. 44]. L
- (b) Where property is sold at a Court sale subject to a mortgage lien, the stamp for the certificate of sale should cover the amount for which the property was sold, as well as the amount of the mortgage lien reserved. 15 B. 532; 13 B. 175; but see *Contra* 15 A. 107; 10 C. 92 and 5 M. 18, noted *supra*. M

See now the present proviso to S. 24 of the Act which provides that nothing in the section shall apply to certificates of sale under this article.

19. CERTIFICATE OR OTHER DOCUMENT *Imperial.*—Two annas [1].

evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.

See also LETTER OF ALLOTMENT OF SHARES (No. 36).

## Legislative Changes—Imperial.

[1] The words “Two annas” were substituted for the words “One anna” by Act XLIII of 1923.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 17.

—XVIII of 1869, Sch. II, art. 4.

—X of 1862, Sch. A, art. 20.

20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.
- Imperial.*—Rupee One.  
*For Bengal, Bombay, Madras, Punjab, Assam, U. Prov.*—  
 Rupees Two.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 18.  
 —XVIII of 1869, Sch. ii, art. 22.  
 —X of 1862, Sch. A, art. 21.  
 —XXXVI of 1860, Sch. A, art. 16.

21. CHEQUE<sup>1</sup> [as defined by section 2 (7)].
- Imperial.*—Anna One.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 19.  
 —XVIII of 1869, Sch. ii, art. 1.

## 1.—“Cheque.”

- (1) Chits to a person not a banker.

Chits addressed to a person, not a banker, requesting him to pay to third persons the amounts mentioned therein are not cheques and are not chargeable under this article. 17 B. 684. N

- (2) Post dated Cheque.

A post dated banker's cheque is available in the hands of its holder and is admissible in evidence with only an one anna stamp, it being duly stamped with reference to the time when it is tendered in evidence. 6 Bom. L.R. 699, O

- (3) Cheques for sums in British territory.

Cheques for sums of £35 and £25, dated 21-10-1889 and 16-11-1889 respectively, drawn at a place in the Punjab, on Bankers in London, bearing impressed stamps of the value of one penny, are under Act I of 1879 chargeable with a duty of one-anna, as they are for amounts in excess of Rs. 20 and have been executed in British India after 1-4-1879; and they are inadmissible in evidence for any purpose if they are not duly stamped. 69 P.R. 1894. F

22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors<sup>1</sup>, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license for the benefit of his creditors.
- Imperial.*—Rupees Ten.  
*For Bengal, Punjab, Assam, U. Prov.*—Rupees Twelve and annas eight.  
*For Madras.*—Rupees Fifteen.  
*For Bombay.*—Rupees Twenty.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 20.

—XVIII of 1869, Sch. ii, art. 28.

—X of 1862, Sch. A, art. 22.

—XXXVI of 1860, Sch. A, art. 17.

1.—“*Conveys...property for the benefit of...creditors.*”

## (1) Composition deed.

(a) There must be compounding of debts due for a—14 Bom. L.R. 506. Q

(b) Where the creditors of an adjudicated bankrupt met and resolved that, if the order of adjudication be annulled, a composition payable by instalments be accepted in full satisfaction of their debts, and that the security of the plaintiff's firm be accepted for payment of such composition and that the bankrupt's estate be assigned to the *former*, an instrument giving effect to these resolutions and signed by the bankrupt, was *held* to be a composition deed coming under this article and not a conveyance. 16 M. 85. R

## (2) Instrument by debtors in favour of creditors assigning their dwelling house for satisfying debts.

—is a composition deed. 38 B. 576 = 16 Bom. L.R. 226 = 24 Ind. Cas. 730. S

23. CONVEYANCE <sup>1</sup> [as defined by section 2 (10)] not being a TRANSFER charged or exempted under (No. 62)—

where the amount or value of the consideration for such conveyance as set forth <sup>2</sup> therein does not exceed Rs. 50 ;

*Imperial*—Annas Eight.

*For Bombay, C. Prov., U. Prov.*  
—Annas Eight.

*For Bengal, Madras, Punjab, Assam.*—Annas Twelve.

where it exceeds Rs. 50 but does not exceed Rs. 100.

*Imperial*—Rupee One.

*For Bombay, C. Prov., U. Prov.*  
—Rupee One.

*For Bengal, Madras, Punjab, Assam.*—Rupee One and annas eight.

where it exceeds Rs. 100 but does not exceed Rs. 200.

*Imperial*—Rupees Two.

*For Bombay, C. Prov., U. Prov.*  
—Rupees Two.

*For Bengal, Madras, Punjab, Assam.*—Rupees Three.

where it exceeds Rs. 200 but does not exceed Rs. 300.	<p><i>Imperial</i>—Rupees Three.</p> <p><i>For U. Prov.</i>—Rupees Three and annas eight.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Four and annas eight.</p>
where it exceeds Rs. 300 but does not exceed Rs. 400.	<p><i>Imperial</i>—Rupees Four.</p> <p><i>For U. Prov.</i>—Rupees Four and annas fourteen.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Six.</p>
where it exceeds Rs. 400 but does not exceed Rs. 500.	<p><i>Imperial</i>—Rupees Five.</p> <p><i>For U. Prov.</i>—Rupees Six and annas four.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Seven and annas eight.</p>
where it exceeds Rs. 500 but does not exceed Rs. 600.	<p><i>Imperial</i>—Rupees Six.</p> <p><i>For U. Prov.</i>—Rupees Seven and annas ten.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Nine.</p>
where it exceeds Rs. 600 but does not exceed Rs. 700.	<p><i>Imperial</i>—Rupees Seven.</p> <p><i>For U. Prov.</i>—Rupees Nine.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Ten and annas eight.</p>
where it exceeds Rs. 700 but does not exceed Rs. 800.	<p><i>Imperial</i>—Rupees Eight.</p> <p><i>For U. Prov.</i>—Rupees Ten and annas six.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Twelve.</p>
where it exceeds Rs. 800 but does not exceed Rs. 900.	<p><i>Imperial</i>—Rupees Nine.</p> <p><i>For U. Prov.</i>—Rupees Eleven and annas twelve.</p> <p><i>For Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i>—Rupees Thirteen and annas eight.</p>

where it exceeds Rs. 900 but does not exceed Rs. 1,000.

*Imperial*—Rupees Ten.

*For U. Prov.*—Rupees Thirteen and annas two.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam*—Rupees Fifteen.

and for every Rs. 500 or part thereof in excess of Rs. 1,000.

*Imperial*—Rupees Five.

*For U. Prov.*—Rupees Six and annas eight.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam*—Rupees Seven and annas eight.

### *Exemption.*

Assignment of copyright by entry made under the Indian Copyright Act, 1847, section 5.

CO-PARTNERSHIP DEED. *See*  
PARTNERSHIP (No. 46).

### NOTES.

#### Old Acts:—

This article was—Act I of 1879, Sch. i, art. 21.

—XVIII of 1869, Sch. i, art. 15.

—X of 1862, Sch. A, arts. 23 to 25.

—XXXVI of 1860, Sch. A, art. 19.

Exemption to the above corresponds to art. 5, Sch. ii of Act I of 1879.

### *I.—“Conveyance.”*

#### (1) Sale of more properties than one.

(a) A—for a sum of money composed of different items mentioned in the deed as consideration for the different items is liable to stamp duty calculated on the aggregate sum and not on the various items composing the aggregate amount. 10 B.H.C.A.C. 354. T

(b) Conveyance of free-holds and good-will and a transfer of interests secured by leases. See 23 C. 233, *infra*. U

#### (2) Covenants for title in a conveyance.

The stamp for a conveyance paid under this article must be taken to cover the usual covenants for title, which it might contain and the words in it which merely express such covenants cannot be considered as constituting an indemnity bond so as to render the document liable to stamp duty as an indemnity bond in addition to the duty to which it is liable as a conveyance. 1 M. 133. V

2<sub>i</sub>—"Consideration.....as set forth therein."

## (1) Recital of sale.

As a conveyance has been defined to be an instrument by which property, whether moveable or immovable, is *transferred* on sale, where a deed simply recites the fact that certain moveables have been already transferred and delivered to the purchasers, the said moveables not being transferred under the deed cannot, and ought not to, be taken into consideration for purposes of stamp duty. 23 C. 283 at p. 288. W

## (2) Deduction of duty paid in respect of mortgage.

The proviso to the explanation to S. 24, *supra*, which enacts that where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage has been *held* to contemplate that, to entitle the mortgagor to the said deduction, the property transferred ought to be identical with that mortgaged and should not form merely a part thereof. 29 B. 203=6 Bom. L.R. 844. X

## (3) Transfer subject to payment of debts and maintenance.

An instrument, dated 1853, which purported to be a transfer by the executant of the property inherited by her from her husband subject to the payment of his debts, and in which a provision was made for the maintenance of the executant and for the re-transfer of the property in case she gave birth to a son, *held* not to be liable to any stamp duty, taking into consideration the fact that the value of the interest actually transferred did not exceed Rs. 54, the minimum limit for taxation under Madras Regulation II of 1825. 16 M 419. Y

## (4) Transfer of exclusive right to kankar.

A deed evidencing a transfer for consideration of the exclusive right of all the kankar under the land owned by the grantors, *held* to be a conveyance chargeable under this article. 44 P.R. 1891 (F.B.). Z

## (5) Assignment of debt.

A letter from a debtor ordering payment out to a creditor of money due to the former from a third person, for goods sold to him is an assignment of the debt and must be stamped as conveyance under this article. 27 B. 150=4 Bom. L.R. 951. A

## (6) Transaction in substance a sale.

Where a transaction is in substance a sale of a share in a partnership and the transfer of a share in a lease forms only part of the subject-matter of the sale, as being a part of the partnership assets, the transaction should be regarded not as the transfer of a lease, but as the sale of a share in a partnership and duty should be paid in respect thereof as under this article. 12 C. 388 [D., 17 B. 235; R., 23 C. 288; 3 C.L.J. 52]. B

## (7) Conveyance—Release.

A document which is styled as a release under which the executant not only relinquishes his rights over a certain portion of his property but receives a specific sum of money for the bargain, is a conveyance and is chargeable as such under art. 23 of the Act. 10 Bom. L.R. 730=32 B. 509. C

## (8) Sale forming part of a larger transaction.

An instrument which is in terms a conveyance of property at an agreed value, is a sale at that price or value as is set forth therein and the circumstance that it is a part of a larger transaction, cannot affect the character of the instrument. 20 B. 432. D

## (9) Property not intended to pass forthwith.

An instrument acknowledging receipt of money for an intended sale of shares of a company and promising to execute a regular sale deed thereof subsequently is not liable to duty under this article, the property in the shares not being intended to pass forthwith. 14 B. 316. E

See the same case noted under art. 5 (b), *supra*.

## 2.—“Consideration.....as set forth therein”—(Concluded).

## (10) Conveyance to vendors themselves under different denomination.

A conveyance of property by certain persons, though only to themselves under another denomination, is, for purposes of stamp duty, leviable under art. 21 of the Stamp Act, 1879, as if it were to different persons. 13 C. 43 [D., 17 B. 235]. F

## (11) Intrinsic value not to be taken into account.

The amount payable on a conveyance under this article is properly calculated on the consideration set forth therein and not on the intrinsic value of the property conveyed. 20 M. 27. G

## Old Law.

- (a) Under Act I of 1879 a transfer by a trustee to beneficiary drawn in the form of a conveyance for a consideration of Rs. 10 was *held* to be chargeable under its art. 21 corresponding to the present art. 23. 7 M. 350. H

[*Note*.—By the introduction of the words ‘whether with or without consideration and also of the words ‘or from a trustee to a beneficiary’ in art. 62, *infra*, a transfer by a trustee will be liable now under that article and not under art. 23]. I

- (b) Act XVIII of 1869 has not made any provision for an *ad valorem* stamp-duty where the consideration of a conveyance consists of shares in public company made over to the vendor. The word “amount” in cl. 15, Sch. I of that Act clearly means amount of money, and does not include or denote such a consideration as that expressed in the agreement entered into between the parties in the case, namely, the *par* value of the shares of a Company. The words “or secured” in S. 15 of that Act manifestly apply only to cases of mortgages and the like, and do not apply to a conveyance out and out, whatever the consideration for such conveyance may be. 16 W.R. 208. J

24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer<sup>1</sup> and not chargeable under the law for the time being in force relating to court-fees—

(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee ;	Imperial	... Annas Eight.
	For Bombay	... Rupee One.
	For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.	Annas Twelve.
(ii) in any other case	Imperial	... Rupee One.
	For Bombay	... Rupees Two.
	For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.	Rupee One and annas eight.



*Exemptions.*

- (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
- [1] (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, [2] [divorces, deaths or burials.]

**Legislative Changes—Imperial.**

[1] Substituted for clauses (b) and (c) by Act V of 1906. [2] Added by Act X of 1914.

**NOTES.****Old Acts :—**

This article was—Act I of 1879, Sch. i, art. 22.

—XVIII of 1869, Sch. i, art. 23.

—X of 1862, Sch. A, arts. 28 to 32.

—XXXVI of 1860, Sch. A, arts. 21 to 24.

Exemption (a) to the above corresponds to

art. 9, Sch. ii of Act. I of 1879.

S. 15 (13) of Act XVIII of 1869.

Exemp. to art. 32 of Act X of 1862.

—24 of—XXXVI of 1860.

and (b) and (c) to art. 9 (b) and (c), Sch. ii, part ii, App. (D) of Act I of 1879.

**1.—“ Certified.....by or by order of any public officer.”****(1) Copy of Account Book.**

A copy or extract from an entry in an account book, filed under the provisions of Ss. 141-A and 142-A of the Civ. Pro. Code, does not come under this article and requires no stamp. 26 B. 522=4 Bom. L.R. 223. K

See, also, 27 B. 150, at p. 154=4 Bom. L.R. 951 and 11 B. 526. L

**(2) Copy granted by Municipal Secretary.**

The Secretary of Municipal Board is a 'public officer' within the meaning of this article and so a copy of an order passed by a Municipal Board and certified as a true copy by the Secretary to the Board requires to be stamped under this article. 19 A. 293=17 A.W.N. 61. M

**(3) Copy under S. 62, C.P. Code, 1882.**

This article does not apply to a copy contemplated by S. 63 of the Civ. Pro. Code, the attestation of which copy by the Court or its officer is not made on the application of the owner of the copy, but solely in consequence of the express direction of the Code, with a view to its being filed for the purpose of identifying the book entry when produced at the hearing. 15 B. 687 (R., 26 B. 522). N

**(4) Stamp on the original.**

For presumptions as to—, see 11 A.L.J. 506; 38 A. 494=14 A.L.J. 1099 (F.C.). O

**25. COUNTERPART OR DUPLICATE** <sup>1</sup> of any instrument chargeable with duty and in respect of which the proper duty has been paid,—

(a) if the duty with which the original instrument is chargeable does not exceed one rupee; *Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*  
—The same duty as is payable on the original.

(b) in any other case ... *Imperial—Rupee One.*

*Exemption.*

Counterpart of any lease granted to a cultivator <sup>2</sup> when such lease is exempted from duty.

*For Bombay.—Rupees Two.*

*For Bengal, Madras, Punjab, Assam.—Rupees One and annas eight.*

*For U. Prov.—(b) In any other case not falling within S. 6. A. Rupee One and annas eight.*

**NOTES.**

**Old Acts:—**

This article was—Act I of 1879, Sch. i, art. 23.

—X of 1862, Sch. A, art. 33.

—XXXVI of 1860, Sch. A, art. 33.

Exemption to the above corresponds to

art. 13 (c) Sch. ii of Act I of 1879,

S. 15 (10) of Act XVIII of 1869.

Exemption to art. 33 of Act X of 1862,

— 33 of Act XXXVI of 1860.

**1.—“Counterpart or duplicate.”**

**(1) Partition deed in duplicate or triplicate,**

Under Act X of 1862, copy of—furnished to each shares is liable to stamp duty on such share. 8 B. 299. P

**(2) Marupet—Counterpart of lease—Stamp duty.**

A marupet is a counterpart of a lease or a deed executed by a tenant promising certain rent, and where the deed contains a special clause creating a charge over the tenant's improvements in favour of the landlord for arrears of rent, it must be stamped both as a counterpart and as a mortgage. 33 M. L.J. 693=41 M. 469 (F.B.). Q

**(3) Lease of salt-pans.**

A lease of salt-pans is not one 'granted to a cultivator,' the words 'manufacture of salt' and not 'cultivation of salt' being invariably used by the legislature to denote the production of salt: and the counterpart of such a lease is not therefore exempt from duty. 18 B. 546. R

2,—“*Cultivator*,”‘*Cultivator*’, meaning of the word.

- (a) The term ‘*cultivator*’ connotes only persons who actually cultivate the soil themselves or who cultivate it by members of their household or by their servants or by hired labour and with own or hired stock and does not include farmers, middlemen or lessees, who are not therefore ordinarily entitled to the benefit of the exemption; nor is a *kabuliyat* exempt from duty where the land concerned is not susceptible of being treated as a cultivator’s holding in its legitimate sense. 5 A. 360. S
- (b) A person whose occupation is that of a cultivator and who takes a lease of land for planting coccanut trees is, in respect of that occupation, a cultivator within its meaning in the exemption. 15 B. 73 at p. 76. T

## 26. CUSTOMS BOND—

- |   |   |
|---|---|
| (a) where the amount does not exceed Rs. 1,000. | <i>Imperial, Bombay, C. Prov., U. Prov.</i> —<br>The same duty as a Bond (No. 15) for such amount.<br><br><i>For Bengal, Madras, Punjab, Assam.</i> —<br>The same duty as a Bottomry Bond (No. 16) for such amount. |
| (b) in any other case.                          | <i>Imperial.</i> —Rupees Five.<br><br><i>For Bombay, Bengal, Madras, Punjab, Assam, U. Prov.</i> —Rupees Ten.   |

## NOTES.

Old Acts:—

This article was—Act I of 1879, Sch. i, art 24.

—XVIII of 1869, Sch. i, art. 8.

[1] 27. DEBENTURE <sup>1</sup> (whether a mortgage debenture or not), being a marketable security transferable—

- |   |   |
|---|---|
| (a) by endorsement or by a separate instrument of transfer. | <i>Imperial, Bombay, C. Prov., U. Prov.</i> —<br>The same duty as a Bond (No. 15) for the same amount.<br><br><i>For Bengal, Madras, Punjab, Assam.</i> —<br>The same duty as a Bottomry Bond (No. 16) for the same amount. |
| (b) by delivery      ...                                    | <i>Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam.</i> —The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.  |

*For U. Prov.*—When the face amount of the debenture does not exceed Rs. 100. Rs. 1-4-0.

When it exceeds Rs. 100 but does not exceed Rs. 200. Rs. 2-8-0.

When it exceeds Rs. 200. The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the Debenture.

*Explanation.*—The term 'debenture' includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.

*Exemption.*

A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

See also BOND (No. 15) and SECTIONS 8 and 55.

**DÉCLARATION OF ANY TRUST.** See TRUST (No. 64).

**Legislative Changes—Imperial.**

[1] Substituted by Act VI of 1910, S. 3, cl. (iii).

## NOTES.

## Old Acts:—

*No corresponding provision.*

1.—“*Debenture.*”

## Agreement to issue and hand over debentures as security.

A document contained an admission that a sum of money was due by one company to another and an undertaking, on execution thereof, to issue and hand over certain second debentures to the latter company to be held by the same as security for the said sum along with other debentures already deposited with them and also an agreement on the part of the company to grant further advances for the said sum on certain new lines. *Held*, that the document was not a mere agreement to make a transfer but an agreement to hand over the debentures and was therefore an actual transfer; that it was a mortgage-deed with possession within art. 40 (a); and that, in respect of the undertaking to make further advances, the document was liable to further duty under art. 5 (b) as an agreement “not otherwise provided for.” 23 M. 207. U

28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, *Imperial—Anna One.*

any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.

## DEPOSIT OF TITLE DEEDS.

[1] [See AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]

## DISSOLUTION OF PARTNERSHIP.

See PARTNERSHIP (No. 46).

## Legislative Changes.—Imperial.

[1] Substituted by Act XV of 1904.

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 26.

29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.
- Imperial*—One rupee.
- For Bombay, Bengal, Madras, Assam.*  
—Two rupees.
- For Punjab, U. Prov.*—Five rupees.
- DOWER <sup>1</sup>—Instrument of. See SETTLEMENT (No. 58).
- DUPLICATE—See COUNTER-PART (No. 25).

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 34.

## 1.—“Dower,”

## Deed of dower containing also a hypothecation of immoveable property.

Where a deed of dower executed in 1862, besides containing provision for the dower of a Muhammadan wife, also contained a hypothecation of shares in certain villages as security for the payment of such dower, it was held that the deed, though exempted from stamp duty as a deed of dower by virtue of a Notification of the Government of India was still liable to duty as a mortgage-deed under the provisions of Act X of 1862 (Stamp). A.W.N., (1900) 23. V

30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioner's Act, 1884—

- (a) in the case of an Advocate or Vakil.
- Imperial, Bombay, U. Prov.*—Five hundred rupees.
- For Bengal, Punjab, Assam.*—Seven hundred and fifty rupees.
- For Madras.*—Six hundred and twenty-five rupees.
- (b) in the case of an Attorney.
- Imperial*—Two hundred and fifty rupees.
- For Bombay, Bengal, Punjab, Assam, U. Prov.*—Five hundred rupees.
- For Madras.*—Three hundred and twelve rupees and eight annas.

*Exemption.*

Entry of an advocate, vakil  
or attorney on the  
roll of any High Court  
when he has previously  
been enrolled in a High  
Court<sup>1</sup>

[1] \* \* \*

## Legislative Changes—Imperial.

[1] Omitted by Act XV of 1904.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 27.

Exemption to the above corresponds to art. 11 (a) of Sch. ii of Act I of 1879.

*1.—“Entry of.....High Court.”*

## (1) Art. 30 (Exemption).

The case of a vakil on the roll of a High Court, who applies to be entered on the roll of Advocates, comes under the above exemption and he is therefore to be exempted from the duty prescribed by this article. 8 M. 14 [R., 36 C, 645=9 C.L.J. 621] W

## (2) Stamp duty, exemption of—Refund—Attorney—Advocate—Enrolment fee exemption of.

One B. at the time of his enrolment as an Attorney of the High Court, paid stamp duty of Rs. 250 under art. 27, sch. I of the Stamp Act (I of 1879). He had not previously paid the duty of Rs. 250 for Articles of Clerkship, not having served his Articles in India. Subsequently, at the time of his enrolment as an Advocate of the High Court, he, without objection, paid stamp duty of Rs. 500 under art. 30-A of the Stamp Act of 1899. Afterwards, B claimed exemption from stamp duty of Rs. 500 levied at the time of his enrolment as an Advocate and asked for a refund of this amount. *Held*, (on a reference from the Board of Revenue) that exemption could be claimed and allowed and that the amount paid should be refunded. 36 C. 345=9 C.L.J. 621=2 Ind. Cas. 843. X

## (3) Advocates of the Upper Burma Judicial Commissioner's Court—Enrolment of.

The Advocates of the Upper Burma Judicial Commissioner's Court whose qualifications were such that, had they applied to the late Chief Court, they would only be enrolled as First Grade Pleaders, will only be enrolled as Pleaders of the High Court and not as Advocates of the High Court. Those who had been enrolled as vakils of any other High Courts in India need not pay any further fee, but the others will have to pay Rs. 500, as the exception in art. 30 will not apply to them. 1 R. 142=74 Ind. Cas. 913 (F.B.). Y

## (4) High Court, meaning of.

The term 'High Court' as used in the above exemption does not include the Court of the Judicial Commissioner of Burma. 14 F.R. 1888. Z

31. EXCHANGE OF PROPERTY—Instrument <sup>1</sup> of.

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*

—The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.

EXTRACT. See COPY (No. 24).

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 35.

—XVIII of 1869, Sch. i, art. 8.

—Sch. ii, art. 38.

—X of 1862, Sch. A, art. 38.

—XXXVI of 1860, Sch. A, art. 27.

## 1.—“Exchange.....Instrument of”,

## (1) Instrument of exchange.

Where, out of lands bought by a certain person under a sale-deed, he transferred to the vendors some portions, getting in lieu of such portions certain other lands of the vendors and executed an instrument reciting the said transfer, it was *held* that such document was an instrument of exchange chargeable under this article. 2 C. 399.

A

## (2) Exchange and sale—Distinction.

See 25 B. 696=3 Bom. L.R. 384.

B

32. FURTHER CHARGE.<sup>1</sup>—

Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—

- (a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*

—The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.

- (b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—



- (i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument ;
- Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—* The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
- (ii) if possession is not so given.
- Imperial, Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.—* The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
- For Madras :—* The same duty as a Bottomry Bond (No. 16) for the amount of the further charge secured by such instrument.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 30.

—XVIII of 1869, Sch. I, arts. 11 and 17.

## 1.—“ Further charge.”

## (1) Mortgage-deed—Further charge—Stamp.

The mortgagors mortgaged their field with possession to the mortgagees for Rs. 180; and the deed of mortgage was engrossed on a stamp paper of Rs. 2. Subsequently the same mortgagors remortgaged the same field to the same mortgagees for Rs. 250, which consideration was made up of the said Rs. 100 and other debt of Rs. 70 due to the mortgagees. This deed bore a stamp of Re. 1 only: *Held*, that the second bond should be stamped as mortgage bond with possession for Rs. 250 since it was not intended to operate merely as a further charge under a still subsisting mortgage, but as a new mortgage for Rs. 250 in which the previous one merged. 3 Bom. L.R. 42=25 B. 370. C

## (2) Transfer of debentures and agreement to make further advance.

Agreement to make further advance is liable for further stamp duty. See 23 M. 207, *supra*. D

33. GIFT<sup>1</sup> —Instrument of, not being a SETTLEMENT (No. 58) or WILL OR TRANSFER (No. 62).
- Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—* The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

HIRING AGREEMENT or agreement for service. See AGREEMENT (No. 5).

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 86.

—XVIII of 1869, Sch. II, art. 37.

—X of 1862, Sch. A, art. 35.

—XXXVI of 1860, Sch. A, art. 25.

## General.

## Scope of Article.

- (a) Obvious and natural meaning of words used in a document is to be given to them. 38 C.L.J. 21. E
- (b) Where a widow, having executed a document granting a person an annuity charged on the revenues of a village, subsequently, adopted a son who, soon after the adoption, made an endorsement on the said document consenting to act according to the same, *held*, that the instrument should be stamped with a single stamp as an instrument of gift under this article. 7 B. 194. F
- (c) Where a donee was directed in an instrument of gift of certain land to maintain the donor out of the profits of the land, *held*, that the instrument was liable to stamp duty as a gift under this article and not as a declaration of trust. 12 M. 89 G

## I.—“Gift.”

## (1) Conveyance for consideration.

A transfer of land in pursuance of a compromise of a widow's suit for maintenance is neither a settlement nor a gift but must be treated as a conveyance and stamped accordingly by reason of the consideration for the matter. 21 M. 422. H

## (2) Test to distinguish gift from will.

- (a) Whether the instrument is intended to have immediate operation or not is the most important test in distinguishing a settlement or gift from a testamentary document. See 20 B. 210, noted under art. 58, *infra*. I
- (b) Where an instrument purports to be, and clearly is, a will, it does not become a deed of gift or a release or a deed of assignment merely because some past acts of disposition are recited in it. 22 B. 632 at p. 635. J

## (3) Deed of gift—No value of property set forth—No stamp duty payable—Prosecution under S. 64.

A deed of gift is chargeable with stamp duty according to the value of the property as set forth in such instrument. Where no value is stated the deed does not require any stamp under the Stamp Act and the Collector has no authority to ascertain the value of the property independently and with a view to causing the instrument to be stamped with reference to the value thus ascertained. If the value is not given in the instrument with a view to defraud the Government, a prosecution under S. 64 of the Stamp Act will lie. 20 A.L.J. 161=44 A. 339=65 Ind. Cas. 811=A.I.R. (1922) All. 82 (F.B.); 8 M. 453. K

34. INDEMNITY BOND <sup>1</sup> ... Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.  
—The same duty as a Security-Bond (No. 57) for the same amount.

## INSPECTORSHIP-DEED.—

See COMPOSITION-DEED  
(No. 22).

INSURANCE. See POLICY  
OF INSURANCE (No. 47).

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 28.

—XVIII of 1869, Sch. i, art. 9.

1.—“ *Indemnity Bond.*”

## A.—INSTRUMENTS NOT FALLING UNDER THE ARTICLE.

(1) *Indemnity note to a Railway Company by a consignee.*

An indemnity note, passed to a Railway Company by a consignee and his surety in respect of goods delivered to the consignee and for which he is unable to produce the railway receipt—by which note they undertake to hold the railway company its agents, and servants, harmless and indemnified in respect of all claims to the said goods—is not an ‘indemnity-bond’ falling under this article but is an agreement chargeable only with a stamp duty of eight annas. 5 B 478. L

(2) *Document not creating fresh obligation.*

Where a mortgage bond contains stipulations under which the mortgagor engages to repay to the mortgagee any costs he may incur in suits brought against him by the mortgagor’s co-sharers, and also any debts charged upon the mortgaged property, which the mortgagee may pay, the stipulations do not create any fresh obligation, and require no additional stamp duty, since ; under the ordinary law of mortgage, the mortgagor is bound, so long as the equity of redemption remains with him, to indemnify the estate against expenses incurred in protecting the title. 9 B. 435. See, hereon, 11 M. 39 (F.B.). M

(3) *Covenants for title.*

The usual covenants for title contained in a deed of conveyance cannot be construed as constituting an Indemnity Bond, so as to render the deed liable to stamp duty as an Indemnity Bond in addition to the duty to which it is liable as a conveyance. 1 M. 183 [R., 25 M. 3]. N

## B.—INSTRUMENT FALLING UNDER THE ARTICLE.

Where an agreement between a mortgagor and mortgagee contains a stipulation that the mortgagor should, at the time of redemption, make good to the mortgagee the losses arising from the default of tenants, whom it had been agreed the mortgagee might put in, in case the mortgagor made default in payment of the rent agreed upon for the term of the mortgage, such an agreement is not a lease, or the counterpart of a lease, but is a contract of indemnity against losses to be incurred after the determination of the lease. 10 B.H.C.R. 441. O

**35. LEASE<sup>1</sup>** including an under lease or sub-lease and any agreement to let<sup>2</sup> or sub-let—

- (a) where by such lease the rent is fixed and no premium<sup>3</sup> is paid or delivered—

IMPERIAL, BOMBAY. C. PROV.

- (i) where the lease purports to be, for a term of less<sup>4</sup> than one year ;

IMPERIAL, BOMBAY, C. PROV.

The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

**IMPERIAL, BOMBAY, C. PROV.—**

(ii) where the lease purports to be for a term<sup>5</sup> of not less than one year but not more than three years ;

(iii) where the lease purports to be for a term in excess of three years ;

(iv) where the lease does not purport to be for any definite term ;

(v) where the lease purports to be in perpetuity ;

**FOR BENGAL, MADRAS, PUNJAB, ASSAM & THE U. PROV.**

(i) where the lease purports to be for a term of less than one year ;

(ii) where the lease purports to be for a term of not less than one year, but not more than five years ;

**IMPERIAL, BOMBAY, C. PROV.—**

The same duty as a Bond (No. 15) for the amount or value of the average annual rent<sup>6</sup> reserved.

The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.

The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.

The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.

*For Bengal, Madras, Punjab, Assam.—*  
The same duty as a Bottomry Bond (No. 16) for the whole amount payable or deliverable under such lease.

*For U. Prov.—*The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

*For Bengal, Madras, Punjab, Assam.—*  
The same duty as a Bottomry Bond (No. 16) for the amount or value of the average annual rent reserved.

*For U. Prov.—*The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.

**THE BENGAL, MADRAS, PUNJAB,  
ASSAM AND THE U. PROV.**

- |   |  |
|---|--|
| <p>(iii) where the lease purports to be for a term exceeding five years but not exceeding ten years ;</p>           | <p><i>For Bengal, Madras, Punjab, Assam, U. Prov.</i>—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.</p>   |
| <p>(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years ;</p>         | <p><i>For Bengal, Madras, Punjab, Assam, U. Prov.</i>—The same duty as a Conveyance (No. 23) for a consideration equal to twice the amount or value of the average annual rent reserved.</p>   |
| <p>(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years ;</p>       | <p><i>For Bengal, Madras, Punjab, Assam, U. Prov.</i>—The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent reserved.</p>   |
| <p>(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years ;</p> | <p><i>For Bengal, Madras, Punjab, Assam, U. Prov.</i>—The same duty as a Conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.</p>  |
| <p>(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity ;</p>               | <p><i>For Bengal, Punjab, Assam, U. Prov.</i>—The same duty as a Conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of the rents which would be paid or delivered in respect of the first fifty years of the lease.</p> <p><i>For Madras.</i>—The same duty as a Conveyance (No. 23) for a consideration equal to one-sixth of the whole amount of the rents which would be paid or delivered in respect of the first fifty years of the lease.</p> |
| <p>(viii) where the lease does not purport to be for any definite term :</p>  | <p><i>For Bengal, Madras, Punjab, Assam, U. Prov.</i>—The same duty as a Conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.</p>  |

- (b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved ;

*For Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

- (c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.

*Imperial, Bombay, C. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered :

#### *Exemptions 7.*

- (a) Lease, executed in the case of a cultivator<sup>8</sup> and for the purposes of cultivation<sup>9</sup> (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

- (b) Leases of fisheries granted under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889.

*For Bengal, Madras, Punjab, U. Prov.*—The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered :

Provided that, in any case in which an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed twelve annas.

#### NOTES.

##### Old Acts :—

This article was :—Act I of 1879, Sch. i, arts. 4 and 39.

—XVIII of 1869, Sch i, art. 19 and S. 3 (15),

—X of 1862, Sch. A, arts. 3 and 39 to 42,

—XXXVI of 1860, Sch. A, arts. 18, 29 to 32,

Exemption (a) to the above corresponds to

art. 13 (b), Sch. ii of Act I of 1879,  
S. 15 (9) of Act XVIII of 1869,  
Exemption to art. 42 of Act X of 1862,  
-----33 of Act XXXVI of 1860,

and (b) to art. 13 (a), Sch. ii of Act I of 1879.

### General.

- (1) **Amaldustak, whether it requires stamp—Conviction under S. 62 (b) if maintainable.**

An agreement for a lease, whereby no rent is reserved and no premium paid or money advanced, is not included in the schedule and does not require a stamp. *Held*, on a construction of amaldustak which was for a term of seven years but wherein no rent was fixed, that the document did not require stamp, and so the conviction of the executant of the document under S. 62 (b) of the Stamp Act was set aside. 20 C.W.N. 923=1 Pat. L.J. 366=17 Cr. L.J. 496=36 Ind. Cas. 175=3 Pat. L.W. 72. **F**

- (2) **Transfer of under-tenure endorsed on pottah—Admissibility in evidence,**

Where the transfer of an under-tenure is effected by an endorsement on the back of the tenant's pottah, the endorsement is not admissible in evidence, unless it be stamped as though it were a separate deed. 3 B.L.R. App. 30; 11 W.R. 365 [R., 12 W.R. 208]. **Q**

### I.—“ Lease.”

- (1) **Lease by whom to be executed.**

Lease includes a ‘*Kabuliyat*.’ It is not necessary that for a deed to be a ‘lease,’ it must be executed by the lessor. 8 O.C. 197. **R**

- (2) **Instrument termed lease but in reality a mortgage.**

A deed, described therein as a lease but executed in consideration of a sum of money, advanced by the executant to the executors, and providing for the executant's remaining in possession of certain land for a certain number of years and not containing any provision either for the repayment of the sum advanced or for payment of rent, was *held* to be a usufructuary mortgage and not a lease. 21 M. 358 (F.B.). **S**

- (3) **Payment of revenue to Government and of rent.**

A perpetual lease was granted on the understanding that the lessee should pay, annually, a certain sum direct to Government on account of revenue due on the land and a certain sum annually as rent. *Held*, the sum total of the two sums represented the rent and that stamp-duty was calculable on such aggregate sum. 7 M. 155 (F.B.). **T**

**N.B.**—For stamp-duty due for a perpetual lease, see now cl. (v) of sub-cl. (a) of this article (ED.).

- (4) **Rent payable each month—Advance returnable at end of term.**

See 26 M. 473 under S. 5, *supra*. **U**

- (5) **Rent payable in kind worth a certain amount.**

See 4 M.L.J. 201, noted under S. 26, *supra*. **Y**

- (6) **Lease and mortgage.**

See 17 A. 55, noted under S. 2 (17), *supra*. **W**

- (7) **Entry in lessor's book of account.**

An—showing the extent of the holding and the amount of rent payable by the lessee and signed by the latter is not a lease or agreement to lease but only an admission of a lease and does not require either stamp or registration 5 C. 864. **X**

## 1.—"Lease"—(Concluded).

## (9) Deed not the contract of lease.

Where a deed is not the contract of lease itself but only evidence of the contract, it is not liable to stamp-duty as a lease. 14 W.R. 334. Y

## (9) Petition—Evidence of lease.

A petition, which is not the contract of lease but only evidence of the contract of lease to be entered into between the parties is not liable to stamp-duty. 14 W.R. 178. Z

## Old Law.

## (1) Lease between landlord and tenant.

When Act X of 1862 was in force, a lease in the Madras Presidency, by which the relationship of landlord and tenant was created between two persons in respect of land paying revenue to Government for a period of five years, was exempt from stamp-duty and this irrespective of the amount of rent payable. 4 M.H.C.R. 153. A

## (2) Lease under Act XVIII of 1869.

See 3 M. 342 (F.B.) noted under S. 26, *supra*. B

## 2.—"Agreement to let."

## (1) Agreement by a Zemindar.

An —to execute a formal deed of lease of his zemindari, which was then under attachment, in favour of the executee, after getting a certificate from Court under S. 305, Civ. Pro. Code, *held* to be an agreement to let. 17 M. 280 = 4 M.L.J. 104 (F.B.). C

## (2) Lease—Documents substituting new terms.

Where, after a first complete lease deed has itself been executed, stamped, and registered, another document is prepared and executed with a view to alter that first complete document and to substitute, so far as the rent is concerned, certain new terms for the old terms, the latter document requires under the Stamp Act to be itself stamped with a stamp which is rendered necessary for a lease. It is not merely a paper which is to be taken in connection with another paper that has already been stamped, in order to supply what is deficient in that paper, i.e., such that the two must be taken together in order to arrive at the agreement of lease which was originally come to. 20 W.R. 36 [R., 14 O.L.J. 411]. D

## (2) Lease concurred to by persons other than lessor—Multifarious documents.

B to whom A had agreed for a certain price to transfer the mining rights in a certain property for a period of 999 years, subject to the payment of certain rents and royalties, agreed to transfer those rights to C, subject to the same conditions as to rents, royalties, but for an increased price. To carry this lease agreement into effect, a lease was executed, but concurrence of A amongst others was obtained to it. *Held*, that the instrument was a single lease and liable to stamp duty as such. It was not a multifarious document within the meaning of S. 5 embodying two leases. The concurrence which it was thought proper to obtain of several persons other than the lessor did not alter the character of the lease or the nature of the transaction. 14 C. W.N. 861 = 6 Ind. Cas. 762 = 37 C. 629. E

## 3.—"No premium is paid," etc.

## (1) Deposit of rent.

Where a lease is granted for a certain number of years and the lessee deposits with the lessor the rent of one year in advance, on condition that such amount should be credited towards the rent due for the last year of the lease, such advance is not the payment of a fine or premium within the meaning of the article. 7 M. 203 (F.B.) [R., 4 M.L.J. 201]. F



## 3.—“No premium is paid” etc.—(Concluded).

## (2) Payment of rent in advance.

Where a lease is granted for a number of years and some portion of the total amount of rent due for the whole period is paid in advance, such payment is not a payment of a premium within the meaning of the words of the article, 7 M. 203 (F.B.) [R., 25 M. 752]. G

N.B.—The above cases were under Act I of 1879. It is a matter for consideration whether the deeds would, under the present Act, fall under cl. (b) (Ed) where we find the words or for money advanced, newly introduced.

## (3) Lease granted for a premium.

Where, by a document purporting to be an instrument of mortgage, the owner of certain land, being indebted in a certain sum, conveyed the land to his creditor for nine years in liquidation of the principal and interest of the debt and it was arranged that the creditor should take the produce of the land or suffer the loss, if any, and pay a fixed sum per annum as rent, it was held that it was a lease with a premium subject to duty as such. 7 M. 203 (F.B.). H

## (4) Lease of shares for consideration of premium and rent reserved—Stipulation by lessees to pay Government demand till expiry of lease—Payment of demand to be deemed as rent reserved.

Upon care stated by the Financial Commissioner, the question as to the stamp duty upon the instrument forming the subject of this reference was decided by the Chief Court to the effect that the instrument was a lease falling under the provisions of art. 39, cl. (d), sch. I, Act I of 1879. By the terms of the instrument under consideration, the owners executed a lease on their shares in certain villages, in consideration of a lump sum of money being paid in annual instalments throughout the period of the lease. Such lump sum was held to be of the nature of a fine or premium and it was not the less of that nature because the rate per annum at which it fell, when distributed over the entire term of the lease, happened to be stated in the instrument. With regard, however, to the provision in the instrument as to the payment of the Government demand, by the lessees, the Chief Court was of opinion that the sums so to be paid by the lessees periodically during the lease, being certain in amount, were of the nature of rent. And as the lease was one granted for a fine or premium in addition to rent reserved, viz., the Government demand, it fell under art. 39, cl. (d), sch. I of Act I of 1879. *Per Plowden, J., dissenting*:—The sum payable under an engagement by the lessees to pay the taxes payable in respect of the property demised was not in the nature either of rent reserved or of a fine or premium, and the instrument referred therefore fell under cl. (c) and not under cl. (d) of art. 39 of Act I of 1879. 102 P.R. 1882. I

## 4.—“Lease.....less than one year.”

## (1) Lease not exceeding one year.

A lease for one year certain, with an expression on the tenant's part to hold the land longer at the same rent if the landlord should so desire it, is a lease for a term not exceeding one year. 3 B. 21. J

## (2) Lease agreement to pay months rent daily by instalments.....Proper stamp.

An agreement to pay the shop-rent, Rs. 60 per month, and to pay the said rent at Rs. 2 per day creates a monthly tenancy, that is to say “the lease purports to be for a term of less than a year” within the provision of the Stamp Act, Art. 35 (a) (i). 28 C.W.N. 393=46 C. 804=51 Ind. Cas. 221. K

## 5.—“Lease.....not less than one year.”

## Covenant to renew after expiry of term.

Where, in the case of a lease for three years at a certain annual rent, the lessor covenanted to grant a renewal for one or two years after expiry of term at the option of the lessee, it was held that the covenant to renew was not an independent contract but was only part of the consideration to enter into the lease and that stamp-duty was payable as on a simple lease for three years. 11 M.L.J. 350 (F.B.). L

## 6.—“Average annual rent.”

Value of the lease for stamp purposes—Rent reserved—Liability of lessee to pay Government assessment to lessor—Value fixed by the rent alone.

In a lease of certain lands for a term of five years, the rent reserved was a moiety of the produce or Rs. 100 per year and the lessee agreed to pay Rs. 16-8-0 to the lessor for Government assessment. A question having arisen whether the lease was to be valued at Rs. 100 or Rs. 116-8-0 under Art. 35, Stamp Act. *Held* that the value of the lease for stamp purposes, was to be taken at Rs. 100 and not at Rs. 116-8-0, inasmuch as the only profit for the lands demised which the landlord could realise was the half of the produce or Rs. 100, and Rs. 16-8-0 was not a part of the profit but was a liability attaching to the thing itself in the hands of the lessor. 17 Bom. L.R. 320 = 39 B. 434 = 28 Ind. Cas. 584. M

## 7.—“Exemption (a).”

## (1) Scope of exemption (a).

Exemption (a) exempts all leases in the case of a cultivator without the payment or delivery of any fine or premium, whatever the reserved or annual rent may be, provided it be for a definite term not exceeding one year, and also whatever the term may be, provided the annual rent reserved does not exceed Rs. 100. 6 B. 691 (F.B.). N

## (2) Object of exemption (a).

The exemption was probably enacted for the special benefit of the class ordinarily known as the cultivating class of the country. Even if a particular lessee does not happen to belong to that class, if, in reality, he is a cultivator in the strict sense of the term, the exemption would apply to a lease taken by him. *Per* Birdwood, J., in 15 B. 73 (at p. 76). Q

## (3) Mouree-ryotee pottahs, stamp duty not chargeable for.

See 3 W.R. Act X, Rul. 141. A case under Act X of 1862. P

## (4) Lease of salt-pans, counterpart of.

A counterpart of a lease of salt-pans not purporting to be the counterpart of a lease granted to a cultivator is not exempted from stamp duty by cl. (c) of art. 13 of sch. II of Stamp Act (I of 1879). 13 B. 546 (F.B.) Q

## 8.—“Cultivator.”

## Meaning of the term.

(a) By the term ‘cultivator’ is meant only those persons who are actually engaged in the cultivation of the soil themselves or who cultivate it by members of their household or servants or by hired labour and with their own or hired stock. The term does not include farmers, middlemen or lessees, even though cultivation may be carried on to some extent by such persons in the area covered by their leases. 5 A. 360 = 3 A.W.N. 113. [D., 15 B. 73]. R

(b) A person whose occupation is that of a cultivator and takes a lease of land for planting cocoanut trees is, in respect of that occupation, a ‘cultivator.’ A lease given by such person will be exempt from stamp-duty, if the annual rent reserved does not exceed Rs. 100. 15 B. 73. S

N.B.—If cocoanut trees are treated as trees for the production of food or drink, such a lease as the above will be exempt from duty.—(ED.)

## 9.—“For the purposes of cultivation.”

## (1) Land not susceptible of cultivation.

Where a land, the subject of a lease, is not cultivable or susceptible of being treated as a ‘cultivator’s’ holding, the exemption would not apply. 5 A. 360. T

## (2) Lease for a purpose other than that of cultivation.

A—is not exempt from stamp-duty. 10 B. 173 [D., 15 B. 73]. U

36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company. *Imperial*:—Two annas [1].

See also CERTIFICATE OR OTHER DOCUMENT (No. 19).

### Legislative Changes—Imperial.

[1] The words "Two annas" were substituted for "One anna" by Act XLIII of 1923.

### NOTES.

#### Old Act :—

This article was—Act I of 1879, Sch. 1, art. 40.

#### 1.—"Allotment."

#### Notice of allotment of shares.

—requires stamp 4 C.W.N. 369.

37. LETTER OF CREDIT, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn. *Imperial*:—Two annas [1].

#### LETTER OF GUARANTEE.

See AGREEMENT (No. 5).

### Legislative Changes—Imperial.

[1] The words "Two annas" were substituted for "One anna" by Act XLIII of 1923.

### NOTES.

#### Old Acts :—

This article was :—Act I of 1879, Sch. i, art. 41.

—XVIII of 1869, Sch. ii, art. 2.

38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion. *Imperial*.—Rupees Ten.  
*For Bengal, Punjab, Assam, U. Prov.*—Rupees Twelve and annas eight.  
*For Madras.*—Rupees Fifteen.

## NOTES.

## Old Acts :—

This article was :—Act I of 1879, Sch. i, art. 42.

—XVIII of 1869, Sch. ii, art. 29.

—X of 1863, Sch. A, art. 45.

—XXXVI of 1860, Sch. A, art. 35.

## 39. MEMORANDUM OF ASSOCIATION OF A COMPANY—

(a) if accompanied by *Imperial.*—Rupees Fifteen.

articles of association under section 37 of the Indian Companies Act, 1882 ;

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Thirty.

(b) if not so accompanied ... *Imperial.*—Rupees Forty.

*For Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Eighty.

*Exemption.*

Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.

## NOTES.

## Old Acts :—

This article was :—Act I of 1879, Sch. i, art. 43.

—XVIII of 1869, Sch. ii, art. 34.

Exemption to the above corresponds to art. 11 (Pt. II, App. D.) Sch. ii of Act I of 1879.

40. MORTGAGE-DEED <sup>1</sup>, not being [1] [an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS PAWN OR PLEDGE (No. 6)<sup>1</sup>. BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), or SECURITY-BOND (No. 57)—

(a) <sup>2</sup> when possession of the property or any part of the property comprised in such deed is given <sup>3</sup> by the mortgagor or agreed to be given <sup>4</sup>.

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—*  
The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.

(b) <sup>5</sup> when [2] \* \* \* possession is not given or agreed to be given as aforesaid ;

*Imperial, Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.—*  
The same duty as a Bond (No. 15) for the amount secured by such deed.

*For Madras.—*The same duty as a Bottomry Bond (No. 16) for the amount secured by such deed.

*Explanation.—*A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.

(c) <sup>6</sup> when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped,

for every sum secured not exceeding Rs. 1,000

*Imperial.—*Annas Eight.

*For Bombay.—*Rupee One.

*For Bengal, Madras, Punjab, Assam, U. Prov.—*Annas Twelve.

and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.

*Imperial.—*Annas Eight.

*For Bombay.—*Rupee One.

*For Bengal, Madras, Punjab, Assam, U. Prov.—*Annas Twelve.

*Exemption.*

- (1) Instruments executed by person taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.
- (2) <sup>7</sup> Letter of hypothecation accompanying a bill of exchange.
- (3) [2] \* \* \*

**Legislative Changes—Imperial.**

[1] Substituted by Act XV of 1904. [2] Repealed by Act XV of 1904.

**NOTES.****Old Acts :—**

This article was—Act I of 1879, Sch. i, art. 44.

—XVIII of 1869, Sch. i, arts. 10 and 16.

—Sch. ii, art. 20.

—X of 1862, Sch. A, arts. 46 to 50.

—XXXVI of 1860, Sch. A, arts. 36, 37, 39 to 41.

Exemption (1) to the above corresponds to

art. 12 (a), Sch. ii of Act I of 1879;

(2) to art. 14 (b), Sch. ii of Act I of 1879.

S. 15 (5) of Act XVIII of 1869.

Exemp. to art. 50 of Act X of 1862.

(3) to art. 8 (1), App. D, Pt. II, Sch. ii of Act I of 1879.

**General.****Distinction between this article and article 6.**

This article deals with cases in which the interest in or right over property is transferred. Whether possession is given or not, for the purposes of the mortgage, art. 6 is limited to cases where moveable property only is given in pledge, coupled with an agreement securing the repayment of a loan. 21 C. 241 (244).

**1.—“ Mortgage-deed.”****A.—INSTRUMENTS FALLING UNDER THE ARTICLE.****(1) Security bond by receiver.**

A —should be stamped both under Court Fees Act and under art. 40, 43 M. 363 (F.B.) ; 11 A. 16 (F.B.).

## 1.—“Mortgage-deed”—(Concluded).

## A.—INSTRUMENTS FALLING UNDER THE ARTICLE—(Concluded).

## (2) Promissory note collateral security.

An instrument evidencing an agreement to secure the repayment of a loan with interest giving, as collateral security, a certain promissory note payable on demand is chargeable, as a mortgage-deed under this article and not as an agreement by way of equitable mortgage under art. 6, *supra*. *Held*, also, for the purpose of ascertaining what stamp-duty is payable on an instrument alleged to be a mortgage, it is necessary to see if the instrument is a mortgage as defined in this Act. 27 C. 587=4 C.W.N. 524. X

## (3) Agreement to transfer debentures.

A document by one Company to another undertaking, on execution thereof, to issue and hand over certain second debentures to the latter Company as security for money due to them was *held* not a mere agreement to make a transfer but an agreement to hand over the debentures and was, therefore, an actual transfer constituting the document a mortgage deed with possession chargeable under this article. 23 M. 207. Y

## (4) Mortgage of grain.

Where certain boats containing grain were assigned by the owners thereof in consideration of an advance of money by a Firm on condition that the owners of the boats were to work the boats for the Firm and be responsible for the safe custody thereof and that, if the advance should not be repaid on demand by the Firm, the latter were to take possession of, and sell, the boats, *held* that the deed containing the stipulations was a mortgage and liable to stamp duty as such and not a pledge. 21 C. 241. Z

## (5) Deposit of promissory notes.

See 11 M. 39 noted under S. 2 (17), *supra*. A

## (6) Lease or mortgage.

See 21 M. 358 noted under S. 35, *supra*. B

## (7) Kanom in Malabar.

A deed of— is liable to a stamp-duty as a mortgage only and in calculating the consideration, the ascertained amount of compensation for improvements paid at the landlord's request by the incoming, to the outgoing, tenant ought to be included. 22 M. 164. C

## (8) Assignment of growing coffee.

An agreement, in consideration of a sum of money lent by the executors to the executant, assigning to the former the whole crop of coffee then growing upon the latter's estate, upon trust, *inter alia*, to secure the repayment of the money advanced, *held* to be a mortgage and liable to stamp as such, notwithstanding the fact that it contained a provision to the effect that the executant should cultivate the crop till maturity. 8 M. 104 (F.B.). D

## B.—INSTRUMENTS NOT FALLING UNDER THIS ARTICLE.

## (1) Billika by an arrack contractor.

A agreeing to deposit a certain sum of money equivalent to three months' rental as a security for the due performance of the contract, *held* liable to a stamp-duty of eight annas as an agreement and not to duty as for a mortgage. 15 M. 134 (F.B.). E

## (2) Agreement by a D.P.W. Contractor.

An—who undertook the execution of certain Public Works, recited that payment should be made to him from time to time by the Executive Engineer and that the latter might retain 10 p.c. on the value of the work done to cover compensation for default on the part of the contractor and as security for the proper performance of the work. *Held*, the deed was liable to stamp-duty as an agreement and not as a mortgage under this article. 7 M. 209 (F.B.). F

## 2.—“ Clause (a) ”.

N.B.—See notes under S. 2 (17), *supra*.

G

## Intention of cl. (a).

The — is to cover cases of mortgage with possession and the words ‘agreed to be given’ are to be read as if the words ‘at the time of execution’ immediately followed and qualified the word ‘given’.

Cl. (a) should be read as if it were worded “When possession of the property .....is given by the mortgagor at the time of execution, or is agreed to be then given, and not.....is *then* agreed to be given.” 8 B. 310 (F.B.). Compare 10 C. 274. H

## 3.—“ Given ”.

## Construction of the word ‘given’.

The word ‘given’ in cl. (a) points out that only those transactions are intended to be covered where the transfer of possession takes place in consequence of the agreement on the part of the mortgagor to deliver over possession as part of the security for the mortgage-money; but where the mortgagee becomes entitled to enter upon possession irrespective of the consent of the mortgagor to make over possession, cl. (a) will not apply. *Per Mitter, J.*, in 10 C. 274. I

## 4.—“ Agreed to be given.”

## Construction of the phrase, ‘agreed to be given’.

The words ‘agreed to be given’ can only apply where there is an express or implied agreement to give possession; they will not apply where there is no such agreement express or implied, but the effect of the document is such that a mortgagee has merely a right which he can enforce in a Court of law to obtain possession. *Per Field, J.*, in 10 C. 274. J

## 5.—“ Clause (b) ”.

## (1) Possession promised to be given at a future date.

Where, in the case of a mortgage deed, it was agreed that if the amount borrowed was not repaid by a certain date, possession would be given thereafter to the mortgagee, it was *held* that the deed fell within cl. (b). 8 B. 310 (F.B.). K

## (2) Hypothecation of produce of sugar-cane field.

A deed whereby a person borrowed a certain sum of money as earnest money agreeing to deliver at a certain date a certain quantity of unrefined sugar, upon which he was to receive profit at a certain rate and the produce of the sugar-cane field was hypothecated as collateral security, the value of such produce not being stated, *held* to be a mortgage deed within the above definition. 9 A. 585=7 A.W.N. 190 (F.B.). L

## (3) Distinction between cls. (a) and (b).

The principle of the distinction is that, where the title to the land and the possession or immediate right to possession both pass to the mortgagee, the same duty is charged as upon a conveyance by way of sale; but when the title only passes, and possession or right to possession does not, the lower duty is chargeable. *Per Garth, C. J.*, in 10 C. 274. M

## (4) Stamp on mortgage-deed with surety.

A mortgage deed of immoveable property in which the mortgagor and his surety jointly and severally undertake to pay the mortgage money, falls within the meaning of Art. 40 (b) and does not require any additional stamp on the ground of there being two distinct contracts so as to bring it within the purview of S. 5. 15 P.R. 1910=16 P.W.R. 1910=4 P.L.R. 1910=5 Ind. Cas. 812. N



## 6.—“ Clause (c).”

(1) **Stipulations not creating fresh obligation.**

Where a mortgage-bond contains stipulations under which the mortgagor engages to repay to the mortgagee any costs he may incur in suits brought against him by the mortgagor's co-sharers, and also any debt charged upon the mortgaged property which the mortgagee may pay, such stipulations do not create any fresh obligation and require no additional stamp-duty. C

(2) **Merger of first mortgage in second.**

Where a second deed of mortgage is not intended to operate merely as a further charge, but as a new mortgage in which the first mortgage merges, the second mortgage must be stamped with a stamp covering the whole amount, including the amount of the mortgage merging in it. 25 B. 370=3 Bom. L.R. 42 ; 23 M. 207. P

## 7.—“ Exemption (2).”

**Formal declaration of trust not to be treated as letter of hypothecation—Stamp duty.**

A formal declaration of trust cannot be treated as a letter of hypothecation within the meaning of the exemption under this Article. 14 M.L.T. 499=25 M.L.J. 613=38 M. 646=21 Ind. Cas. 876,(F.B.) See 51 Ind. Cas. 88=29 C.L.J. 305=23 O.W.N. 534. Q

**41. MORTGAGE OF A CROP 1,**  
including any instru-  
ment evidencing an agree-  
ment to secure the repay-  
ment of a loan made upon  
any mortgage of a crop,  
whether the crop is or is  
not in existence at the  
time of the mortgage—

- (a) when the loan is repay-  
able not more than  
three months, from the  
date of the instrument  
—for every sum secured  
not exceeding Rs. 200 ;

*Imperial.*—Anna One.

*For Bombay, Madras.*—Annas Two.

*For Bengal, Punjab, Assam.*—Anna  
One and pies six.

- and for every Rs. 200 or  
part thereof secured in  
excess of Rs. 200 ;

*Imperial.*—Anna One.

*For Bombay, Madras.*—Annas Two.

*For Bengal, Punjab, Assam.*—Anna  
One and pies six.

- (b) when the loan is repay-  
able more than three  
months, but not more  
than [1] [eighteen  
months] from the date  
of the instrument—

for every sum secured not exceeding Rs. 100 ;

*Imperial.*—[2] [Annas Two.]

*For Bombay.*—Annas Four.

*For Bengal, Madras, Punjab, Assam.*—Annas Three.

and for every Rs. 100 or part thereof secured in excess of Rs. 100.

*Imperial.*—[2] [Annas Two.]

*For Bombay.*—Annas Four.

*For Bengal, Madras, Punjab, Assam.*—Annas Three.

### Legislative Changes—Imperial.

[1] Substituted by Act V of 1906. [2] Substituted by Act XV of 1904.

### NOTES.

#### Old Acts:—

*No corresponding provision.*

#### I.—“Mortgage of a crop.”

#### CASES UNDER THE OLD LAW.

#### (1) Pledging and assigning of season's crop.

Where the Manager of an Indigo concern, by a deed, in which the owners of the concern joined, pledged and assigned the season's crop to certain persons to secure repayment of a large sum of money borrowed of them, the deed was held under Act XVIII of 1869 to be chargeable as an agreement. 2 C. 58.R

[Note.—“Whether the crop is or is not in existence at the time of the mortgage” this new article will apply.

#### (2) Assignment of growing crops to secure loan.

Where one person in consideration of a sum of money to be advanced to him by another, assigned to that other, the whole crop of coffee then growing upon a certain estate, upon trust, *inter alia*, to secure the repayment of the above money, held, under Act I of 1879, the document which so assigned the crop was a mortgage liable to duty under art. 44 (b) of Sch. I of that Act. S M. 104. S

*Note.*—This new art. 41 will now govern such an instrument.

#### 42. NOTARIAL ACT, that is

to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.

*Imperial.*—Rupee One.

*For Bombay, Bengal, Punjab, Assam, U. Prov.*—Rupees Two. :

*For Madras.*—Rupee one and annas eight only.

See also PROTEST OF BILL OR NOTE (No. 50).

## NOTES.

## Old Act:—

This article was—Act I of 1879, Sch. i, art. 45.

—XVIII of 1869, Sch. ii, art. 23.

—X of 1862, Sch. A, art. 53.

[1] 43. NOTE OR MEMORANDUM<sup>1</sup> sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—

(a) of any goods exceeding in value twenty rupees.

*Imperial.*—Annas Two.

*For Bombay.*—Annas Four.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Annas Three.

(b) of any stock or marketable security exceeding in value twenty rupees.

*Imperial.*—Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security.

*For Bombay.*—Subject to a maximum of Rupees Twenty, two annas for every Rs. 10,000 or part thereof of the value of the stock or security.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Subject to a maximum of Rupees Fifteen, two annas for Rs. 10,000 or part thereof of the value of the stock or security.

## Legislative Changes—Imperial.

[1] Substituted by Act VI of 1910, S. 3, cl. iv.

## NOTES.

## Old Act:—

This article was—Act I of 1879, Sch. i, art. 46.

## 1. —“Note or Memorandum.”

(1) Documents, being Memoranda of contracts between broker and purchaser signed by both.

Documents in the nature of notes or memoranda of contracts between the broker and the person offering to purchase goods and containing the signatures of both of them are chargeable under this article and cannot be regarded as “memoranda of agreements for or relating to the sale of goods or merchandise” covered by Exemption (a) to Art. 5, *supra*, 14 B. 102 at p. 106. [4ppr., 28 B. 492; R., 2 L.B.R. 103; U.B.R. 1909 Stamp 86.]

## 1.—“Note or Memorandum”—(Concluded).

## (2) Bought and sold notes—Agreement to refer to arbitration—Stamp duty.

The contract in this case was comprised in bought and sold notes each signed by the brokers and stamped under Art. 43 of the Stamp Act with a stamp of two annas. This contract contained a number of conditions, one of which constituted the submission to arbitration. Held, that the agreement to refer any dispute whatever arising out of the contract to arbitration is a part of the contract itself, and not a “distinct matter” within the meaning of S. 5 and that the documents together making the contract were not chargeable with duty otherwise than as brokers notes under Art. 43. 39 C. 669=16 Ind. Cas. 153. See hereon 40 C. 299=17 C.W.N. 395=18 Ind. Cas. 978 ; 13 C.W.N 63=1 Ind. Cas. 371. U

44. NOTE OF PROTEST BY  
THE MASTER OF A  
SHIP.

*Imperial.*—Annas Eight.

*For Bombay, Bengal, Madras, Assam,  
U. Prov.*—Rupee One.

*See also* PROTEST BY THE  
MASTER OF A SHIP  
(No. 51).

ORDER FOR THE PAY-  
MENT OF MONEY.

*See* BILL OF EXCHANGE  
(No. 13).

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 47,

—XVIII of 1869, Sch. ii, art. 12,

—X of 1862, Sch. A. art. 60.

45. PARTITION <sup>1</sup> —  
Instrument of  
[as defined by  
S. 2 (15)].

*Imperial, Bombay, Punjab, Assam, U. Prov.,  
C. Prov., Bengal.*—The same duty as a  
Bond (No. 15) for the amount of the  
value <sup>2</sup> of the separated share or shares  
of the property.

*For Madras.*—The same duty as a Bottomry  
Bond (No. 16) for the amount of the  
value.

**N.B.**—The largest share remaining after the  
property is partitioned (or if there are  
two or more shares of equal value and  
not smaller than any of the other  
shares, then one of such equal shares)  
shall be deemed to be that from which  
the other shares are separated.

Provided always that—

- (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas :
- (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue :
- (c) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

#### NOTES.

##### Old Acts:—

This article was—Act I of 1879, Sch. i, art. 37.

—XVIII of 1869, Sch. i, art. 18.

——————Sch. ii, art. 39.

—X of 1862, Sch. A, art. 54.

—XXXVI of 1860, Sch. A, art. 42.

See Notes under S. 2 (15), *supra*.

#### 1.—“ Partition ”.

##### (1) Award of arbitrators.

An — directing partition, if signed by the parties by way of assent to the award becomes thereby an instrument of partition and ought to be stamped as a deed of partition. 9 B. 50. Y

##### (2) Release by a Hindu son to father.

A — as representing the whole family, whereby the former relinquishes his rights over the general property in consideration of certain lands being allotted to him for life and certain debts incurred by him being paid, held not a deed of partition but a deed of release. 18 M. 233 (F.B.). W

##### (3) Agreement to divide according to an award.

See 15 B. 677 noted under S. 2 (15), *supra*.

X

1.—“*Partition*”—(Concluded).

- (4) **Decree for partition on Commissioner's report.**  
See 29 B. 366=7 Bom. L.R. 308, noted under S. 2 (15), *supra*. Y
- (5) **Civil Court's decree for partition**  
See 32 C. 483 noted under S. 2 (15), *supra* Z  
N.B.—No refund, if by mistake Court-fee stamp is used, in spite of non-judicial stamps being supplied afterwards. 12 C.L.J. 314=14 C.W.N. 1101=2 Ind. Cas. 94. A
- (6) **Final decree operating to effect partition of moveable and immoveable property—*In specie*.**  
In so far as a final decree operates to effect a partition of moveable and immoveable property *in specie*, it should be treated as an instrument of partition and stamp duty paid in accordance with the provisions of this Article. 24 Ind. Cas. 643=1 Pat. L.J. 281. B
- (7) **Shares belonging to joint family standing in the name of one brother—*Oral partition*—Subsequent transfer of shares of each brother as representing what fell to his share.**  
Where part of the joint family property belonging to three brothers consisted of certain shares in a Company and there having been a partition between them, the brother in whose name the shares all stood executed deeds of transfer to each of the other brothers transferring certain shares representing his allotment in the property, the deeds of transfer must be stamped under Art. 45 as an instrument of partition. 47 B 321=25 Bom. L.R. 112 (F.B.). C
- (8) **Family arrangement not a deed of partition.**  
See 7 C. 21 noted under S. 2 (24), *supra*. D
- (9) **Document between persons not really co-owners**  
See 12 M. 198 (F.B.) noted under S. 2 (15), *supra*. E
- (10) **Receipts by members of a Hindu family.**  
See 15 M. 164 (F.B.) noted under S. 2 (15), *supra*. F
- (11) **Account or list of share.**  
See 7 M. 385 (F.B.) noted under S. 2 (15), *supra* G

## Old Law.

- (1) **Deed under Act X of 1862.**  
When a deed of partition was executed in duplicate, triplicate, etc., under Act X of 1862, each sharer's copy was liable to a stamp-duty. 8 B 299 (F.B.). H
- (2) **Stamp-duty under Act I of 1879.**  
The—on an instrument of partition was chargeable in respect of the entire property sought to be divided and not merely in respect of that portion of it allotted to the applicant for partition. 2 A. 664 (F.B.). I  
N.B.—Under the present Act, it is chargeable on the value of the 'separated share or shares of the property.'

2.—“*Value*.”

- (1) **Value how to be computed.**  
For purposes of the Act, the value of the property must be computed with reference to its market-value and not with reference to the Court-Fees Act. 2 A. 664 (F.B.). J
- (2) **Deeds of settlement—Contingent on happening of future events.**  
Being only one transaction, held that the second deed required one stamp for one rupee only. 37 A. 159. K

**46. PARTNERSHIP—****A.—INSTRUMENT <sup>1</sup> OF—**

- (a) where the capital of the partnership does not exceed Rs. 500.

*Imperial.*—Rupees Two and annas eight.

*For Bombay, Bengal, Madras, Assam.*—Rupees Five.

*For U. Prov.:*—

- (a) when the capital does not exceed Five hundred rupees.—Rupees Three and annas twelve.

- (b) when the capital exceeds Five hundred rupees but does not exceed One thousand rupees.—Rupees Seven and annas eight.

- (c) In any other case.—Rupees Fifteen.

- (b) in other cases

... *Imperial.*—Rupees Ten.

*For Bombay, Bengal, Madras, Punjab.*—Rupees Twenty.

**B.—DISSOLUTION OF**

... *Imperial.*—Rupees Five.

*For Bombay, Bengal, Madras, Assam, U. Prov.*—Rupees Ten.

[1] [PAWN OF PLEDGE—See AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE No. (6).]

**Legislative Changes—Imperial.**

[1] Inserted by Act XV of 1904.

**NOTES.****Old Acts :—**

This article was —Act I of 1879, Sch. i, arts. 32 and 33.

—XVIII of 1869, Sch. ii, art. 26.

—X of 1862, Sch. A, art. 27,

—XXXVI of 1860, Sch. A, art. 20.

**1.—“Partnership—Instrument.”**

- (1) Agreement to share in profits and loss in consideration of amount advanced.—Partnership agreement.

The defendant had obtained from Government the Abkari farm of a taluk. In consideration of a certain amount advanced by the plaintiff for payment of the deposit, an agreement was entered into between the parties, whereby

## 1.—“ Partnership—Instrument ”—(Concluded),

the whole management of the business was to reside in the plaintiff, and both the parties were to share in the profits and loss and render accounts to each other. The document did not purport to transfer to the plaintiff a separate and distinct property in either the shops or the trees of the farm. *Held* that the agreement provided for a partnership between the parties in respect of the subject-matter of the whole undivided contract, each sharing the profit or loss in equal proportions. The document was, therefore, a deed of partnership and had to be stamped under cl. 20, sch. A of Act XXXVI of 1860. 1 M.H.C. R. 226. L

## (2) Dividing part of partnership properties:

—instrument of partnership. 3 Bom.L.R. 132. M

## 47. POLICY OF INSURANCE—

*Imperial :—*

[1] [A. — SEA <sup>1</sup> INSURANCE (see section 7)—

If drawn singly.

If drawn in duplicate, for each part.

## (1) for or upon any voyage—

(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy;

One anna.

Half an anna.

(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy;

Two annas.

One anna.

## (2) for time—

(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—

where the insurance shall be made for any time not exceeding six months;

Two annas.

One anna.

where the insurance shall be made for any time exceeding six months and not exceeding twelve months].

Four annas.

Two annas.

[1] [B.—[2] Fire Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage [2];—



- |  |   |
|--|---|
| (1) in respect of an original policy—  |   |
| (i) when the sum insured does not exceed Rs. 5,000 ;   | Eight annas.  |
| (ii) in any other case ;     ...   | One rupee.  |
| and  |   |
| (2) in respect of each receipt of any payment of a premium on any renewal of an original policy. | One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.] |

C.—ACCIDENT AND SICKNESS-INSURANCE—

- |  |           |
|--|-----------|
| (a) against railway accident, valid for a single journey only. | One anna. |
|--|-----------|

*Exemption.*

When issued to a passenger travelling by the intermediate or the third class in any railway.

- |  |            |
|--|------------|
| (b) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000 and also where such amount exceeds Rs. 1,000, for every Rs. 1,000, or part thereof. | Two annas. |
|--|------------|

- |  |            |
|--|------------|
| [3] [CC.—INSURANCE BY WAY OF INDEMNITY—against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium— | One anna.] |
|--|------------|

D.—LIFE <sup>2</sup> INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this article—

for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000.—

- |  |              |
|--|--------------|
| (i) if drawn singly     ...                | Six annas.   |
| (ii) if drawn in duplicate, for each part. | Three annas. |

*Exemption.*

Policies of life-insurance granted by the Director-General of the Post Office of India in accordance with rules for Postal Life-Insurance issued under the authority of the Government of India.

E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY [4] of the nature specified in Division A, or Division B of this Article [4] with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.

One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.

*General Exemption.*

Letter of cover or engagement to issue a policy of insurance :

Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.

**Legislative Changes :—Imperial.**

[1] Substituted by Act V of 1906. [2] These words were substituted for the words "Fire Insurance," by Act XLIII of 1923. [3] This sub-clause (CC) was newly inserted by Act XV of 1925. [4] These words were substituted for "of Sea-Insurance or a Policy of Fire Insurance" by Act XLIII of 1923.

**NOTES.****Old Acts :—**

This article was—Act I of 1879, Sch. i, art. 49.

—XVIII of 1869, Sch i, art. 3,

—X of 1862, Sch. A, arts. 55 and 56,

—XXXVI of 1860, Sch. A, arts. 43 and 44.

Exemption to the above corresponds to

arts. 14 (a) and 12 (b), App. D, Pt. II, Sch. ii of Act I of 1879.

S. 15 (b) of Act XVIII of 1869.

Note to art. 56 of Act X of 1862.

## General.

## Policy of assurance, transfer of.

An assignment of a policy of insurance by endorsement is liable, as a collateral instrument, to a stamp duty of one rupee under sch. II, cl. 20 of the General Stamp Act, 1869; but not a re-transfer of the same back to the assured, all claims having been satisfied—*Per* Markby and Ainslie, JJ. Neither of the endorsements is chargeable with any duty—*Per* Garth, C.J. 3 C. 347. N

## 1.—“Policy of Insurance—Sea Insurance.”

## (1) Case of Company taking risk.

Where, in consideration of an increased payment, a Company takes all risk in respect to the carriage of goods sent on a sea-voyage, this fact does not render the deed liable to stamp-duty as a sea-policy. 30 C. 565 (575). O

## (2) Document in reality a policy of sea-insurance.

A document, not being a mere “slip” or memorandum of a proposed insurance, but mentioning the name of the ship, the voyage and the premium and other particulars required to be mentioned in a Policy of sea-insurance and providing for the losses being paid on its production and expressly guaranteeing the payment of the losses and claims settled on it, and which on the face of it does not contemplate the necessity of any other document of a more formal character being passed to the assured, is a Policy of sea-insurance within the definition contained in S. 2 (20). 19 B. 130. P

## 2.—“Life Insurance.”

## (1) U.C.S. Family Pension Fund—Entrance Certificate.

An entrance certificate granted under the rules of the Uncovenanted Civil Service Family Pension Fund is a life policy within the definition contained in S. 2 (20). If it is for an amount within Rs. 1,000, it is chargeable with a duty of 6 annas. It is not within the scope of S. 25 (c). 19 C. 499. Q

## (2) Certificate of membership.

A—issued to the subscriber to a Provident Society stating that the recipient thereof had insured his life at such and such age and giving the name of the person to whom, after the death of the recipient of the certificate, the amount due under the rules of the Society should be paid, held to be a policy of life-insurance liable to stamp-duty under cl. (d) of this article. 25 B, 376=3 Bom. L.R. 43. R

## (3) Jekhmi Hundi.

See 4 B. 333.

R-1

# 48. POWER OF ATTORNEY <sup>1</sup> [as defined by section 2 (21)], not being a PROXY (No. 52).—

- (a) <sup>2</sup> when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction <sup>3</sup> or for admitting execution of one or more such documents ;
- Imperial.*—Annas Eight.  
*For C. Prov., Bengal, Madras, Assam.*—Annas Twelve.  
*For Bombay, Punjab.*—Rupee One.

- (b) <sup>4</sup> when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882; *Imperial, C. Prov.*—Annas Eight.  
*For Madras.*—Annas Twelve.  
*For Bombay, Bengal, Punjab, Assam.*—  
Rupee One.
- (c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a); *Imperial.*—Rupee One.  
*For C. Prov., Bengal, Madras, Assam.*—  
Rupee One and annas eight.  
*For Bombay, Punjab.*—Rupees Two.
- (d) <sup>5</sup> when authorising not more than five persons to act jointly and severally in more than one transaction or generally; *Imperial.*—Rupees Five.  
*For C. Prov., Bengal, Madras, Assam.*—  
Rupees Seven and annas eight.  
*For Bombay, Punjab.*—Rupees Ten.
- (e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally; *Imperial.*—Rupees Ten.  
*For C. Prov., Bengal, Madras, Assam.*—  
Rupees Fifteen.  
*For Bombay, Punjab.*—Rupees Twenty.
- (f) when given for consideration and authorising the attorney to sell any immoveable property; *Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—  
The same duty as a Conveyance (No. 23), for the amount of the consideration.
- (g) <sup>6</sup> in any other case ... *Imperial.*—Rupee One for each person authorised.  
*For C. Prov., Bengal, Madras, Assam.*—  
Rupee One and annas eight for each person authorized.  
*For Bombay, Punjab.*—Rupees Two for each person authorized.  
*N.B.*—The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1877.

*Explanation.*—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 50.

—XVIII of 1869, Sch. ii, arts. 13, 19 and 32,

—XXXVI of 1860, Sch. A, art. 34.

See notes under S. 2 (21), *supra*.

## 1.—“Power of attorney.”

## (1) Power of attorney—Instrument—Stamp.

An instrument which authorizes a person to receive certain money and sign a receipt, but which does not empower him to do so in the name of the person executing the instrument, does not amount to a power of attorney  
3 Bom. L.R. 697. S

## (2) Authority to receive sums in course of a work.

See 3 B. 49 under S. 2 (21), *supra*. T

## (3) Gomasta's sunnad.

A sunnad which authorises a gomasta to attach rents and to sue for them, requires to be stamped. If it is a general power-of-attorney authorising him to collect and sue for rents, it must bear a four rupee stamp under Act X of 1862, sch. A. art. 48. 1 B.L.R. F.B. 55=10 W.R. F.B. 39. U

## (4) Authority to pleader to apply to Collector for copies.

See 9 M. 146 (F.B.) noted under S. 2 (21), *supra*. Y

## (5) Yakalatnamah by persons jointly interested.

See 9 M. 358 (F.B.) noted under S. 2 (21), *supra*. W

## (6) Joint authority by mirasadars of a village.

See 15 M. 386 (F.B.) noted under S. 2 (21), *supra*. X

## (7) Power of Attorney by several persons.

See 2 M.L.J. 178 (F.B.) noted under S. 5, *supra*. Y

## (8) Power of Attorney issued in England.

It is not necessary for the Indian Courts to enquire whether a power-of-attorney issued in England but intended to operate in British India satisfies the fiscal requirements of the stamp laws in England. It is enough if it satisfies the requirements of the Indian Stamp Law.

If a power of attorney is intended to operate in England as well as in India, it will be valid in British India if it satisfies the requirements of the Indian Law, notwithstanding the fact that it does not satisfy the English Stamp Law. 28 C. 187. Z

## 2.—“Clause (a) ”.

## Power of Attorney for registration of document.

For a — in a Registration Office, a stamp of annas 8 is sufficient. 9 B.H.C.R. A.C. 43. A

## 3.—“Single transaction.”

## Scope of section—Single transaction, meaning of.

See 38 M. 134=(1913) M.W.N. 72=24 M.L.J. 180=18 Ind. Cas. 135. B

## 4.—“Clause (b) ”.

## Mukatarnama—Yakalatnama—Muktar and mukatarnama.

A Power of Attorney (mukatarnama) empowering a person who is neither a vakil nor a certificated muktar of a Court to represent another in a Civil Court, not being a Presidency Small Cause Court is governed by art. 10 of schedule 2 of the Court Fees Act VII of 1870 and not by art. 48. 108 P.W.R. 1912=202 P.L.R. 1912=15 Ind. Cas. 122. C

5.—“*Clause (d).*”

- (1) General Power of Attorney, whether its copy produced in Court requires Court fee of 8 annas.

*Held*, that a copy of a General Power of Attorney produced in Court for verification does not require a Court-fee Stamp of annas eight under the Court Fees Act, sch. I, art. 8. *Held*, also, that a copy of a General Power of Attorney or the original is not required by law to be replaced on the record of a case in which the attorney is acting. *Held*, further, that a fiscal enactment such as the Court Fees Act must be strictly construed and that art. 48 of sch. I of the Act is intended to authorise the levy of annas 8 in the case contemplated under Order XIII, r. 9 of the Civ. Pro. Code. 136 P.W.R. 1917=9 P.R. 1918=43 Ind. Cas. 383. D

- (2) Power of Attorney.

A power of attorney, which enables the agent to recover a judgment debt due to his principal, but which, in prosecution of this object, authorizes the agent not only to take out execution of the decree already obtained; but also, if necessary, to institute a fresh suit against the judgment-debtor for the recovery of the debt falls under cl. (d), art. 48, sch. I. 3 Bom. L.R. 890. E

6.—“*Clause (g).*”

Power of Attorney—Document authorising holder to appear and do all acts necessary for execution of decree—Duty chargeable.

A document authorising the holder who is not a certificated mukhtar or pleader to appear and do all acts necessary for the execution of a decree, transferred from the Punjab to Cawnpore for execution, is a Power of Attorney within the meaning of S. 2 (21) and chargeable as such with the duty of rupees one as provided by art. 48 (g). 33 A. 437=8 A.L.J. 378=9 Ind. Cas. 617. E

[1] 49. PROMISSORY NOTE<sup>1</sup> [as defined by section 2 (22),]

- (a) When payable on demand<sup>2</sup>—

(i) When the amount or value *Imperial*.—Anna One.  
does not exceed Rs. 250.

(ii) When the amount or value *Imperial*—Annas Two.  
exceeds Rs. 250 but does not  
exceed Rs. 1,000.

(iii) in any other case. *Imperial*.—Annas Four.

- (b) when payable otherwise than on demand<sup>3</sup>. *Imperial*.—The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.

Legislative Changes—*Imperial*.

[1] This Art 49 was substituted for the original article by Act XLIII of 1923.

## NOTES.

## Old Acts:—

This Article was—Act I of 1879, Sch. I. art. 11.

—XVIII of 1869, Sch. I. art. 2.

—X of 1862, Sch. A, art. 57.

—XXXVI of 1860, Sch. A, arts. 4 and 45.

I.—“*Promissory Note.*”(1) **Entry in creditor's book.**

An entry of receipt of money made by a debtor in his creditor's book with the addition that the amount borrowed would be paid on a certain date (but to whom it did not appear) is not executing, without the necessary stamp, a promissory note, for the entry does not amount to a promissory note. A.W.N. (1909) 174. G

(2) **Effect of mention of place of repayment.**

A promissory note does not lose its character as such merely because it contains a promise to pay at a certain place. The mention of the place of payment, being hardly of the essence of the contract, ought to be treated as a surplusage and of no consequence. 4 Bom. L.R. 428. H

(3) **Effect of stamp being uncanceled.**

A promissory note, bearing an adhesive stamp which has not been cancelled as required by S 12, is to be deemed to be unstamped. 2 L.B.R. 103. I

(4) **Instrument in the nature of promissory note—Amount of stamp duty.**

An instrument contained the following: “We bind ourselves to pay with interest to.....the sum of rupees.....being the balance of dealings held with your firm and the amount received this day from you in cash on account of stamp.” Held, that the instrument, though not a bond or hundi, was in the nature of a promissory note and came within the description in cl. 4, sch. A of Act XXXVI of 1860. 1 M.H.C.R. 152. J

(5) **Promissory note—Bond.**

A promissory note, attested by a witness, does not require to be stamped as a bond under Act X of 1862, sch. A, art. 10. The words in that clause “not being a bond, instrument, or writing bearing the attestation of one or more witnesses,” referred only to the preceding words, “other order or obligation for the payment of money.” Also the words “bearing the attestation of one or more witnesses apply only to the words “instrument or writing,” and not to the word “bond.” 2 Ind. Jur. N.S. 203. K

2.—“*Payable on demand.*”(1) **Agreement to repay money with interest on demand.**

An instrument evidencing an agreement to pay a certain sum of money with interest on demand is a promissory note and can be stamped with one anna stamp. 4 Bom. L.R. 912. L

(2) **Agreement to repay on demand followed by collateral agreement.**

Where a promissory note is payable on demand, it ought to be stamped as a note payable on demand, although there may be a collateral agreement between the parties that the holder will not present it for a given time, or, if paid on demand, that the maker of the note shall be entitled to a certain amount of discount to be deducted, since, in applying the Stamp Law the stamp must be paid upon what is stated in the instrument, and cannot depend on collateral evidence. 14 W.R. 38=5 B.L.R. 103. M

(3) **Bond—Impressed stamp—Attestation—Instrument stamped with adhesive stamp—Payable to person or order.**

An instrument attested by witnesses and not payable to bearer or order is a bond as defined in the Stamp Act, and if the stamp it bears is not a stamp which is proper for such an instrument, the instrument should be treated as unstamped. A document stamped with an adhesive stamp of one anna, purporting to be a promissory note attested by two witnesses and payable to person or order on demand, is not a bond but a promissory note. 8 M. 87 (F.B.) [F., 15 M. 259.] N

## 3.—“Payable otherwise than on demand.”

## (1) Pro-note not in reality payable on demand.

A promissory note purporting to be payable on demand, but with the words in pencil: “due 4th June,” put on it the same day it was signed, in accordance with an understanding between the defendant and the payees that they would not press him for payment before the latter date, and signed by the defendant some days after the day it bore date:—*Held*, that a one anna stamp was not sufficient. 3 B.M. H.C.R. 9, but see 14 W.R. 38, *contra* noted *supra* under this article. O

## (2) Pro-note containing signature of scribe as scribe

A document, by which the executant promised to pay a person named therein a certain sum of money within a certain time, although it contained the signature of the writer, as scribe, is not attested by a witness within the meaning of clause (b) of sub-S. 5 of S. 2 of the Act and is consequently a promissory note. 14 P.R. 1902=3 P.L.R. 1902. P

## (3) Promise to pay interest on default of payment at certain time.

—*Held* to be a promissory note. See 21 W.R. 446, 3 A. 260; 14 P.R. 1902. Q

## 50. PROTEST OF BILL OR NOTE,

that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.

*Imperial.*—Rupee One.

*For Bombay, Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Two.

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 50, heading 3.

—XVIII of 1869, Sch. ii, art. 24.

—X of 1862, Sch. A, art. 58.

—XXXVI of 1860, Sch. A, art. 46.

## 51. PROTEST BY THE MASTER OF

A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.

*Imperial.*—Rupee One.

*For Bombay, Bengal, Madras, Assam, U. Prov.*—Rupees Two.

*See also* NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).



## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 50, heading 4.

—XVIII of 1869, Sch. ii, art. 25, S. 3 (28).

—X of 1862, Sch. A, art. 59.

52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors to the Funds of any institution. *Imperial*:—Two annas. [1]

## Legislative Changes—Imperial.

[1] The words "Two annas" were substituted for "One anna" by Act XLIII of 1923.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 51.

—XVIII of 1869, Sch. ii, art. 8.

53. RECEIPT <sup>1</sup> [as defined by section 2 (23)] for any money or other property the amount or value of which exceeds twenty rupees. *Imperial*:—Anna One.

*Exemptions.*

## Receipt—

- (a) <sup>2</sup> endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal-money, interest or annuity, or other periodical payment thereby secured ;

- (b) <sup>3</sup> for any payment of money without consideration ;
- (c) <sup>4</sup> for any payment of rent by a cultivator on account of land assessed to Government revenue or (in the Presidencies of Fort St. George and Bombay) of Inam lands ;
- (d) for pay or allowances by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity, or by mounted police-constables ;
- (e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said armies, and serving in such capacity ;
- (f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officer or soldiers, and not serving the Government in any other capacity ;
- (g) given by a headman or lambardar for land-revenue or taxes collected by him ;
- (h) given for money or securities for money deposited in the hands of any banker, to be accounted for :

Provided that the same is not expressed to be received of, or by the hands of any other than the person to whom the same is to be accounted for ;

Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for, or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security,

- [4] See also POLICY OF INSURANCE  
[No 47-B (2).]

### Legislative Changes—Imperial.

- [4] Added by Act V of 1906.

### NOTES.

#### Old Acts :—

This article was—Act I of 1879, Sch. i, art. 52.

—XVIII of 1869, Sch. ii, art 7,

—X of 1862, Sch. A, art, 61,

—XVIII of 1860, Sch. A, art. 47.

Exemption to the above corresponds to art. 15, Sch. ii of Act I of 1879, S. 15 of Act XVIII of 1869, Note to art. 56 and Exemption to art. 61 of Act X of 1862, art. 47 of Act XXXVI of 1860.

#### I.—“Receipt.”

#### Where acknowledgment of receipt of moveable property.

See 6 A. 253=4 A.W.N. 72, noted under S. 2 (23), *supra*

R

#### A.—INSTRUMENTS CHARGEABLE AS RECEIPTS.

##### (1) Bill containing signature of creditor.

At the foot of a bill for a sum above Rs 20 were printed the words “received payment” beneath which words was written the signature of the firm by which the bill was presented. The money due by the debtor had not been paid, and the document had not been delivered to the debtor. *Held*, that the document was a “receipt” and as such chargeable with stamp duty of one anna. 1 L.B.R. 281. S T

##### (2) Entry by creditor in debtor's book.

(a) An entry made by a creditor in the *khatta*-book of the debtor, and signed by him for the payment of a sum of money in discharge of a debt is a receipt and must be stamped, as such, under this article. 11 C. 267. U

(b) As to an entry of receipt of money made by a debtor in his creditor's book, see A.W.N. (1903) 173, noted under art. 49, *supra*. Y

##### (3) Acknowledgment *re* receipt of cheque.

An acknowledgment by means of a letter, of the receipt of a cheque, is a ‘receipt’ within its meaning in the Act and requires to be stamped under this article, if the amount thereof is over Rs. 20. 11 M. 329. W

##### (4) Receipt on account of club bill.

Where a receipt in writing is given by the Secretary or other Manager of a club to a member acknowledging a payment of above Rs. 20, on account of a club-bill, it is liable to stamp duty under this article. 10 M. 85. X

#### B.—INSTRUMENTS NOT CHARGEABLE AS RECEIPTS.

##### (1) Certificate for exemption from income-tax.

A certificate, to the effect that a premium on an insurance policy has been paid, issued for the purpose of supporting a claim to exemption from income-tax on the amount paid and not primarily intended for use as evidence of payment between the policy-holder and the insurance Company is not a receipt chargeable under this article, since the term ‘receipt’ as used in the Act must be limited to documents given to or issued for the benefit of the debtor, acknowledging to him the payment of money, etc., in discharge or satisfaction of his debt. 2 L.B.R. 307. Y

## I.—“Receipt”—(Concluded).

## B—INSTRUMENTS NOT CHARGEABLE AS RECEIPTS—Concluded.

## (2) Receipt not given to payer.

A Bank memorandum informing one of the customers that money has been paid to his account by a third person and has been credited to that account was held not to require to be stamped as a receipt because it was not given to the party who paid the money. 4 C. 349=3 C.L.R. 597. Z

## (3) Mere statement not being acknowledgment.

Where, at the request of a person who made payment of money to another, a third person drew up a memorandum stating that the money was received by that other, held, such memorandum was not a receipt, since, to constitute a receipt within its meaning in the Act, there must be an acknowledgment express or implied of the receipt of the money and a mere statement of the above description is not sufficient. 28 B 54. A

## (4) Payment by one officer of a firm to another for the purposes of the firm—Receipt—Consideration.

Certain pay orders in respect of money to be paid to creditors of a firm had been made out by the Accounts Department of the firm and were sent to the cashier, who paid the amount to Assistants for payment to the creditors and the assistants signed their names on the back of the pay orders in acknowledgment of receipt. Held, that the acknowledgments were not liable to stamp duty as receipts for payment with consideration. There was in the circumstance no contract between the cashier and the assistants. 14 C.W.N. 833=6 Ind. Cas. 778=37 C. 634. B

## 2.—“Exemption (a).”

## Endorsement on mortgage deed.

An endorsement on a deed of mortgage acknowledging the receipt of the sum thereby secured is not a release but a receipt within the terms of this exemption. 10 M. 64 [R., Rat. Un. Cr. C 732]. C

## 3.—“Exemption (b).”

## (1) Payment of money without consideration.

A receipt given by a Municipality acknowledging payment of house tax exceeding Rs. 20 requires to be stamped under this article. It does not fall under the exemption, the payment not being gratuitous but one in discharge of a legal obligation and in order to relieve the payer from the consequences in case of his default and is, therefore, not one ‘without consideration.’ 12 B. 103. D

## (2) Receipt by a barrister.

(a) A—for a sum over Rs. 20, being the fee for his professional services, is exempted from stamp duty, because the payment is one without consideration. 16 A. 132=A.W.N. (1894) 13 (F.B.); 9 M. 140 (F.S.); 25 A. 509; 4 M.H. C.R. 244; 3 M. 138; 15 P.R. 1897; but see 85 P.R. 1885, which holds that such a payment is not without consideration and that the same is liable to stamp duty. E

(b) A—for his fees is not exempt from stamp duty. 1 C.P.L.R. (Cr.) 11; 4 L.B.R. 55. F

## (3) Receiving back one's own money.

Receiving back one's own money which was recovered from the person by the Police and returned by the Magistrate does not require a stamp. A.I.R. (1924) All. 578=46 A. 354=22 A.L.J. 288. G

## (4) Transfer from Provincial to Local funds by adjustment in Collector's accounts—Receipts by Presidents of District Boards.

Receipts granted by Presidents of District Boards for amounts transferred from Provincial to Local funds by adjustment in the Collector's books of account are exempt from duty as being receipts for payment of money without consideration within the meaning of Art. 53, Stamp Act, exemption (b). 9 Ind. Cas. 342=9 M.L.T. 355=(1911) 2 M.W.N. 298 (F.B.). H

4.—“*Exemption (c).*”

**Decree for rent—Merging of rent in decree—Payment of decree—Receipt, if should bear stamp.**

Art. 53 (c) of the Stamp Act does not exempt, from payment of stamp, a receipt of payment of a decree for rent, although it makes an exception in favour of a receipt for payment of rent of an agricultural holding. When the debt of rent merges into a decree, a receipt for money paid must be stamped. 31 A. 36 = A.W.N. (1908) 272 = 5 A.L.J. 747 = 9 Cr. L.J. 37 = 1 Ind. Cas. 568. I

### 54. RE-CONVEYANCE 1 OF MORTGAGED PRO- PERTY—

(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;

*Imperial, O. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Re-conveyance.

*For Bombay.*—The same duty as a Bond (No. 15) for the amount of such consideration as set forth in the Re-conveyance.

(b) in any other case

... *Imperial, Bombay.*—Rupees Ten.

*For O. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Fifteen.

### NOTES.

#### Old Acts :—

This article was—Act I of 1879, Sch. i, art. 53.

—XVIII of 1869, Sch. ii, art. 27.

—XXXVI of 1860, Sch. A, art. 37.

#### 1.—“*Re-conveyance.*”

**Mortgage—Execution and delivery to mortgagor of supplementary deed reserving equity of redemption—Subsequent possession of deed by mortgagee—Presumption.**

Certain lands were mortgaged by A to B by a deed which on the face of it appeared to be a deed of absolute sale ; at the same time, an *ekrar* which reserved the equity of redemption to A was executed and made over to him. In a suit subsequently brought by B, for confirmation of possession and registration of title, on the allegation that A had returned the *ekrar* to him, thereby surrendering the equity of redemption, A's plea was that the *ekrar* was lost and had somehow found its way to the plaintiff. Held, that, as it was admitted that the *ekrar* was in plaintiff's possession, he was entitled to the benefit of the presumption of law which was in his favour, and the *onus* lay on the defendant to prove by legal evidence the loss of the *ekrar*. Held, also that, as the deed was on the face of it an absolute sale, and as the effect of the deed was merely controlled by the *ekrar*, the effect of the return of the *ekrar* to the mortgagee was that the equity of redemption which, under the *ekrar*, was vested in the mortgagor, became extinguished, so that it was unnecessary to execute any separate document requiring a separate stamp. 11 W. R. 151.

55. RELEASE <sup>1</sup>, that is to say any instrument [1] [(not being such a release as is provided for by section 23-A)] whereby a person renounces a claim upon another person or against any specified property—

(a) if the amount or value of the claim does not exceed Rs. 1,000 ;

*Imperial, Bombay, C. Prov., Bengal, Assam, U. Prov.*—The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.

*For Madras, Punjab.*—The same duty as a Bottomry Bond (No. 16) for such amount or value as set forth in the Release.

(b) in any other case ...

*Imperial.*—Rupees Five.

*For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.*—Rupees Seven and annas eight.

*For Bombay.*—Rupees Ten.

### Legislative Changes.—Imperial.

[1] These words were inserted by Act XV of 1904.

### NOTES.

#### Old Acts :—

This article was—Act I of 1879, Sch. i, art. 54.

—XVIII of 1869, Sch. ii, art. 30.

—X of 1862, Sch. A, art. 52.

—XXXVI of 1860, Sch. A, art. 38.

#### 1.—“Release.”

(1) Words of release contained in an acknowledgment—Whether an acknowledgment or release.

An Account-book kept by an Agent, V.R., for the dealings between himself and his principal consisted of 73 pages and contained at the top of page 70, the entry “due to me Rs. 24,850-12-4” and at the foot the words “balance of the liability is made up of monies advanced by my Agent, V. R., from time to time on my behalf. The above does not include interest due on them.”

At page 71 it continued : “I have examined the several items of accounts entered herein in detail and I find them to be correct. I hereby release my agent, V. R., from all claims to account against him by me or any one claiming under me in respect of the said receipts and disbursements. I hereby acknowledge the correctness of every one of the items of expenditure. Underneath there was the principal’s signature. The words “I hereby release my agent, etc.” amount to a “release” as defined under art. 55. 31 M. L.J. 851= (1917) M.W.N. 121=5 L.W. 279=37 Ind. Cas. 984. K

## 1.—“Release”—(Continued).

## (2) Release.

Where two persons do not claim property as co-owners of each other, but, in order to avoid litigation, agree to give up each in favour of the other certain property which he or she claims to be his or her particular property in full, *held*, that the instrument was a release and should be stamped accordingly. 13 A.L.J. 1109=88 A. 56=31 Ind. Cas. 404. L

## (3) Formal renunciation of claim to immoveable property worth only Rs. 100.

— is a release. 7 N.L.R. 36=10 Ind. Cas. 733=30 B. 304. M

## (4) Release—Gift—Relinquishment by reversioner.

A deed evidencing relinquishment of his claim by the reversioner is a release and must be stamped accordingly. 33 B. 657=11 Bom. L.R. 735; 3 Ind. Cas. 772. N

## (5) Release by mortgagee of mortgage security.

A letter by a mortgagee, giving up one security and accepting another security from the mortgagor, instead of the one released, is a release and ought to be stamped and registered as such. 2 A. 554. O

(6) Release by a *benamtee* purchaser.

See 24 A. 372=23 A. W.N. 71, noted under S. 2 (10), *supra*. P

## (7) Release by a Hindu son to father.

A — as representing the whole family, whereby the former relinquishes his rights over the general property in consideration of certain lands being allotted to him for life and certain debts incurred by him being paid, *held* not a deed of partition but a deed of release. 19 M. 233 (F.B.). Q-R

## (8) Release executed on one anna stamp.

Where a release chargeable with a stamp-duty of four annas was executed on paper bearing a one anna adhesive receipt stamp, it was *held* that such one anna stamp ought not to be taken into consideration in calculating the stamp duty due on the release. 15 M. 259. S

## (9) Release as would be covered by the stamp.—Such deed confined only to so much property as would be covered by the stamp.

A deed was written on unstamped paper, but it was stipulated in the deed that A should get it stamped, which was done, but, instead of an *ad valorem* stamp, his stamp of 2 annas only was impressed. A, after having been in possession of share allotment for ten years brought a suit against his elder brother, claiming interest in the family estate, accordingly to the ordinary Hindu Law, and deeded the deed of release as forgery. The Sudder Ameen upheld the deed to the On appeal to the Civil Court of Dharwar, A for the first time objected to the reception of the deed as evidence, as not being impressed with a stamp sufficient to cover the value of the property released. That Court admitted the deed as evidence of the release. On appeal, the High Court also upheld the deed as evidence of the release. On appeal, the High Court and S. 12, reduced its effect and operation by making it a deed of release for so much only of the property comprised in it as would be covered by the 2 anna stamp impressed. The Judicial Committee reversing such decree, *held* that the course adopted by the High Court in respect to the insufficiency of the stamp was erroneous, as it was the duty of that Court (1) either to have refused to admit the deed as evidence for want of a proper stamp, or (2) in the alternative, to have required the deed to be properly stamped before admitting it as evidence. 15 W.R.P.C. 32=14 M.L.A. 24=2 Suther 407=2 S. 648 (P.C) T

## I.—“Release”—(Concluded).

(10) Transfer by trustee to *cestui que trust*.

Where three executors of a will purported to convey by deed to one of them, in consideration of a sum of Rs. 10, a house to which the latter was entitled under the will it was held that the deed having been executed in the form of a conveyance, it was liable to stamp-duty as a sale-deed and was not a release, because the executors did not renounce and claim on the property nor on the person to whom the deed was executed. 7 M. 850 (F.B.); 32 B. 509=11 Bom. L.R. 730. U

## (11) Orders upon tenants.

—to hold themselves responsible to a particular person, to whom a release has been made by their landlord, are not releases falling within the article and ought not to be rejected on the ground of their being unstamped. Y  
25 W.R. 80.

## (12) Endorsement on a mortgage deed.

An—acknowledging the receipt of money thereby received is exempt from stamp duty, although the effect of the endorsement is the release of the mortgaged land. 10 M. 64 (F.B.). W

## (13) Document not really a release.

If a document, though it purports on its face to be a release, is not in reality one of that description but a deed of partition, it is liable to stamp-duty not as a release but as deed of partition. 12 M. 198 (F.B.). X

## 56. RESPONDENTIA BOND,

that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.

*Imperial, Bombay, U. Prov., C. Bond*  
—The same duty as a J the (No. 15) for the amount of loan secured. ov.

*ssam.—*  
*For Bengal, Madras, Punjab, Bombay*  
The same duty as a amount of Bond (No. 16) for the the loan secured.

REVOCATION OF ANY  
TRUST OR SETTLE-  
MENT. See SETTLE-  
MENT (No. 58); TRUST  
(No. 64).

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 55,

—XVIII of 1869, Sch. i, art. 7,

—X of 1862, Sch. A, art. 14,

—XXXVI of 1860, Sch. A, art.



57. SECURITY BOND <sup>1</sup>

OR MORTGAGE-DEED  
executed by way of  
security for the due  
execution of an office, or  
to account for money or  
other property received by  
virtue thereof or executed  
by a surety to secure the  
due performance of a  
contract,—

(a) when the amount secured does not exceed Rs. 1,000 ;

*Imperial, Bombay, C. Prov., Bengal, Punjab, Assam, U. Prov.—The same duty as a Bond (No. 15) for the amount secured.*

*For Madras.—The same duty as a Bottomry Bond (No. 16) for the amount secured.*

(b) in any other case ... *Imperial :—Rupees Five.*

*For C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.—Rupees Seven and annas eight.*

*For Bombay.—Rupees Ten.*

*Exemptions.*

<sup>2</sup> Bond or other instrument,  
when executed—

(a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;

(b) by any person for the purpose of guaranteeing that their local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;

- (c) under No. 3-A of the rules made by the Governor of Bombay in Council under section 70 of the Bombay Irrigation Act, 1879 ;
- (d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances ;
- (e) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.

## NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 14,  
 —XVIII of 1869, Sch. i, art. 12,  
 —X of 1862, Sch. A, art. 18.  
 —XXXVI of 1860, Sch. A, art. 18.

Exemption to the above corresponds to  
 arts. 8, 12, Sch. ii of Act I of 1879,  
 S. 15 (7) of Act XVIII of 1869.

## I.—“ Security bond.”

## (1) Stipulations by way of penalty.

If the parties to an agreement add to the stipulations in it a provision, whereby a sum of money is made payable by way of penalty for non-performance of a work at the appointed time, such a provision is in the nature of an obligation for the payment of money and for the due execution of a contract within the meaning of this article. 2 N.W.P.F.C. 435. Y

## (2) Security bond liable to fixed duty.

A security bond for the fulfilment of duties as a cashier, is liable to a fixed duty ; such a document, therefore, does not fall within the purview of S. 26 of the Act. 27 M. 71. Z

## (3) Security bond by receiver in favour of Court.

See 43 M. 363 ; 11 A. 16 under Art. 40, *supra*. A

But see 21 C.W.N. 1150 prescribing in the circumstances one stamp under Court Fees Act. See cases under Art. 40, *supra*. B.

## 1.—“ Security bond ”—(Concluded).

- (4) **Combination of Nokurnama and Security bond.**  
—chargeable with stamp duty for both. A.I.R. (1924) Nag. 408 (2). **C**
- (5) **Duty on mortgage-deed executed by surety along with mortgagor and mortgagee.**  
See 15 P.R. 1910=5 Ind. Cas. 813.
- (6) **Security bond under C.P.C. for production of attached live stock.**  
—is a bond to be stamped under Court Fees Act. 37 M. 17=24 M.L.J. 637=20 Ind. Cas. 775 ; 47 C. 997 = A.I.R. (1923) Cal. 269. **D**
- (7) **Security-bond for due accounting for property received by a Government officer.**  
There was a doubt under Act I of 1879 whether under art. 12 (b) of the Sch. ii thereof, a —was exempt from stamp-duty : *vide* judgments of *Spankie and Straight*, JJ., in 3 A. 784=1 A.W.N 74 (F.B.). This doubt was due to the fact that art. 12 (b) in the Sch. ii to that Act did not contain the words ‘ or other property.’ Such doubt has now been removed by the insertion of the words ‘ or other property ’ in the present art. 57 (e). **E**
- (8) **Security bond by third party to Abkari department.**  
A —is exempted. 1 M.H.C.R. 190. **F**

## 38. SETTLEMENT 1—

A.—INSTRUMENT OF (including a deed of dower).

*Exemption.*

(a)<sup>2</sup> Deed of dower executed on the occasion of a marriage between Muhammadans.

(b) Hindu settlement of immoveable property executed by a Buddhist in order for a religious purpose in which no purpose has been specified value by which a duty of Rs. 10 has been paid.

*Imperial, Bombay, C. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement ;

Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.

*For Bengal, Madras, Punjab, Assam.*—The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property settled as set forth in such settlement.

Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed twelve annas,

*For U. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement :

Provided that, where an agreement is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the stamp on such instrument shall not exceed twelve annas.

B.—REVOCATION OF—. . . *Imperial, Bombay, C. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.

*For Bengal, Madras, Punjab, Assam.*—The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation, but not exceeding Rupees fifteen.

*For U. Prov.*—The same duty as a Bond (No 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding Rupees fifteen.

*See also TRUST (No. 64).*

# NOTES.

## Old Acts :—

This article was—Act I of 1879, Sch. i, art. 57,

—XVIII of 1869, Sch. i, art 14.

—X of 1862, Sch. A, arts. 35, 64.

—XXXVI of 1860, Sch. A, art. 49.

Exemption to the above corresponds to App. D. to Pt. ii and art. 8 (k), Sch. ii of Act I of 1879.

## 1.—“Settlement.”

## (1) Settlement, meaning of.

See 7 M. 349 noted under S. 2 (24), *supra*.

G

## (2) Gift of land to sister and her son.

See 7 M. 349 (F.B.) noted under S. 2 (24), *supra*.

H

## (3) Trust-deed—Immediate operation.

Where an instrument called a trust deed was intended to have immediate operation and vested the trust property immediately in the trustees, and the provisions as to management and ultimate beneficial interest in the property showed that its operation might extend even beyond the life of the owner, *held*, that it was a settlement and should be stamped accordingly. 20 B. 210 (F.B.). I

## (4) Settlement before Act XV of 1904.

A deed of settlement remains a settlement within the meaning of this article, although it records by way of declaration or otherwise the terms of a disposition, not made in writing, at a date anterior to the passing of Act XV of 1904. 7 Bom. L.R. 931. J

## (5) Settlement—Stamp—Power exercised under appointment by will—Executors devoting money to charity—Subscriptions gathered by an appeal to public—Declaration of trust as regards subscription.

An instrument declaring trusts of certain funds placed in the hands of trustees for a charitable purpose was engrossed on a stamp paper of Rs. 15. The funds amounting in all to about three lakhs of rupees were derived from two sources. A lakh of rupees was the result of appeals for the charity, and was brought in various amounts by different contributors, who in some instances coupled the amounts with letters expressing their wishes with regard to the money. The remaining two lakhs were provided by the executors of one A H to whom the sum was bequeathed by A H for establishing such a charity as the executors thought fit. A question having arisen whether the stamp was properly valued. *Held*, (1) that, so far as the fund of one lakh was concerned, no previous disposition had been made in writing of any portion of it, and the instrument recorded by way of declaration of trust the terms of the disposition of the fund, and was, therefore, a settlement within the meaning of S. 2 (24) of the Stamp Act, 1899, and chargeable with duty at eight annas per cent; (2) That, so far as the two lakhs was concerned, the instrument was an appointment chargeable as a duty of Rs. 15 under art. 7, sch. I of the Stamp Act, 1899, inasmuch as the provisions of the will amounted to a disposition for a charitable purpose of the sum, and the executors in appropriating the money were exercising the power of appointment conferred upon them by the will. 13 Bom. L.R. 646=35 B. 444. K

## (6) Creation of life interest.

See 21 M. 422 noted under S. 2 (24), *supra*.

L

## (7) Security for payment of dower.

Although a deed of security for the payment of dower was exempt from stamp-duty, a deed executed by way of security for the payment of the dower was not exempt from duty but was chargeable with duty as a mortgage-deed under Act X of 1862. 20 A.W.N. 23. M

## 2.—“Value.....as set.”

## Stamp-duty how to be calculated.

The stamp-duty on a settlement ought to be calculated on the value of the property settled as set forth in such settlement and not on the value of the interest or interest created by the settlement. 8 M. 453 (F.B.). N

59. SHARE WARRANTS to bearer issued under the Indian Companies Act, 1882.

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam.*—[1] [One and a half times] the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.

*Exemptions.*

Share warrant when issued by a company in pursuance of the Indian Companies Act, 1882, section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp revenue, of—

*For U. Prov.*—The same duty as a Debenture transferable by Delivery (No. 27-b) for a face amount equal to the nominal amount of the shares specified in the warrant.

(a) [1] [one and a half] per centum of the whole subscribed capital of the Company, or

(b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—[one and a half] [1] per centum of the additional capital so issued.

SCRIP. See CERTIFICATE (No. 19).

**Legislative Changes—Imperial.**

[1] Substituted by Act VI of 1910, S. 3, Cl. v.

**NOTES.**

This article is new.

60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.

*Imperial.*—Anna One.

**NOTES.**

**Old Acts :—**

- The article was—Act I of 1879, Sch. i, art. 58.
- XVIII of 1869, Sch. ii, art. 6.
- X of 1862, Sch. A, art. 65.

61. SURRENDER<sup>1</sup> OF LEASE—

(a) When the duty with which the lease is chargeable does not exceed five rupees;

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam, U. Prov.:—*  
The duty with which such lease is chargeable.

(b) in any other case ...

*Imperial.—Rupees Five.*

<sup>2</sup> *Exemption.*

*For Bengal, Madras, Punjab, Assam, U. Prov.—Rupees Seven and annas eight.*

Surrender of lease, when such lease is exempted from duty.

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 59.

—XVIII of 1869, Sch. i, art. 26.

Exemption to the above corresponds to

art. 16, Sch. ii of Act I of 1879.

S. 15 (11) of Act XVIII of 1869.

1.—“*Surrender.*”

## (1) Durmaurasi Mokurari tenure-holder.

A—cannot relinquish his lease without the landlord's consent. 9 C. 671=12 C.L. R. 343. See hereon 22 B. 348; 8 B. 164. O

## (2) Landlord and tenant—Rajinama by tenant—Tenant continuing in possession—Effect of rajinama under S. 74, Bombay Land Revenue Code, 1879.

*Held* that the rajinama operated as a surrender or relinquishment of the tenancy 13 B. 294. But see 45 B. 898=23 Bom. L.R. 272=61 Ind. Cas. 464. P

2.—“*Exemption.*”

## Surrender of tenant's interest.

A document, which was substantially a surrender by a tenant of his interest in land to his landlord was *held* to be exempt from stamp-duty under the general exemption clause in Act X of 1862. 9 B.H.C.R. 246. Q

62. TRANSFER<sup>1</sup> (whether with or without consideration)—

(a) of shares in an incorporated company or other body corporate;

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam.—*[1] [One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.

*For U. Prov.—*

(a) and (b) :—

When the value of the share or the face amount of the debenture does not exceed Rs. 100.      Rs. 12.

When the value of the share or the face amount of the debenture exceeds Rs. 100 but does not exceed Rs. 200.      Rs. 1-8-0.

When the value of the share or the face amount of the debenture exceeds Rs. 200 but does not exceed Rs. 300.      Rs. 2-4-0.

When the value of the share or the face amount of the debenture exceeds Rs. 300 but does not exceed Rs. 400.      Rs. 3-0-0.

When the value of the share or the face amount of the debenture exceeds Rs. 400 but does not exceed Rs. 500.      Rs. 3-12-0.

When the value of the share or the face amount of the debenture exceeds Rs. 500 but does not exceed Rs. 600.      Rs. 4-8-0.

When the value of the share or the face amount of the debenture exceeds Rs. 600 but does not exceed Rs. 700.      Rs. 5-4-0.

When the value of the share or the face amount of the debenture exceeds Rs. 700 but does not exceed Rs. 800.      Rs. 6-0-0.

When the value of the share or the face amount of the debenture exceeds Rs. 800 but does not exceed Rs. 900.      Rs. 6-12-0.

When the value of the share or the face amount of the debenture exceeds Rs. 900 but does not exceed Rs. 1,000.      Rs. 7-8-0.

and for every Rs. 500 or part thereof in excess of Rs. 1,000.      Rs. 3-12-0.

(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam:—*[1] [One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.

*For U. Prov.—See under (a) above.*



(c) of any interest secured by a bond, mortgage-deed or policy of insurance—

(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees [For Madras only :—Substitute "Rupees seven and annas eight" for "Rupees five"—*Mad. Act VI of 1923*].

*Imperial, Bombay, C. Prov., Bengal, Madras, Punjab, Assam :—*The duty with which such bond, mortgage deed or policy of insurance is chargeable.

(ii) in any other case.

*Imperial.—*Rupees Five.

*For Bengal, Madras, Punjab, Assam, U. Prov.—*Rupees Seven and annas eight.

*For Bombay.—*Rupees Ten.

(d) of any property under the Administrator - General's Act, 1874, section 31 ;

*Imperial, Bombay.—*Rupees Ten.

*For Bengal, Madras, Punjab, Assam, U. Prov.—*Rupees Fifteen.

(e) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.

*Imperial. —*Five rupees or such smaller amount as may be chargeable under clauses (a) to (c) of this article.

*For Bengal, Madras, Punjab, Assam, U. Prov.—*Seven rupees eight annas or such smaller amount as may be chargeable under clauses (a) to (c) of this Article.

#### *Exemptions.*

#### Transfers by endorsement—

(a) of a bill of exchange, cheque or promissory note;

(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;

(c) of a policy of insurance ;

(d) of securities of the Government of India.

*See also section 8.*

#### Legislative Changes—Imperial.

[1] Substituted by Act VI of 1910, S. 2, Cl. vi.

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 60 (a).

—XVIII of 1869, Sch. i, arts. 4 and 18.

—X of 1862, Sch. A, art. 9.

—XXXVI of 1860, Sch. A, arts. 3 and 19.

Exemption to the above corresponds to

art. 17, Sch. ii of Act I of 1879.

S. 15 of Act XVIII of 1869.

Exemption to arts. 9 and 25 of Act X of 1862,

and Exemption to arts. 3 and 19 of Act XXXVI of 1860.

## I.—“Transfer.”

## (1) Meaning of the word.

The word ‘transfer’ has long been recognised to be a technical term of law in all countries where English is the language of the legislation. It is often used as a convertible term with ‘alienation,’ ‘conveyance’ and ‘assignment.’

## (2) Shares belonging to joint family standing in the name of partition—Subsequent transfer of shares of each brother what fell to his share.

Where part of the joint family property belonging to three brothers consisted of certain shares in a Company and there having been a partition between them, the brother in whose name the shares all stood executed deeds of transfer to each of the other brothers transferring certain shares representing his allotment in the property, the deeds of transfer art. 45 as an instrument of partition. Art. 62 is applicable since the brother who made the transfer was not a trustee for the other co-owners to whom the transfer was made.

## (3) Endorsement of transfer on a money bond.

See 17 B. 687 (F.B.) under S. 14, *supra*.

## (4) Stamp duty payable—Security for due fulfilment

An instrument was executed between a firm M, a partner in a company, and its provisions fell under two heads: The first part related to the transfer to M L by M of a mortgage on the property of the firm M and by him formally assigned to another part related to the accountability to M L (who was the Cashier of M L) in respect of the firm's fulfilment of his duties as Cashier and as such liable to a sum of Rs. 6,000. Held that the first part of the instrument was only the transfer of a mortgage, and as such liable to a stamp duty under art. 62, cl. (c) and that the stamp duty payable as to the second part was also a fixed duty under art. 60 of the above Act had no application to the instrument.

## (5) Conveyance of lands and transfer of lease

When by one and the same deed there was a conveyance of freehold lands and a transfer of leasehold interests, when Act I of 1879 was in force, held the deed stamped under art. 21 of that Act as a conveyance of freehold property, good in law, and not a transfer of leasehold interests secured by the lease.

## 1.—"Transfer"—(Concluded).

(6) Transfer by trustee to *cestui que trust*.

Where three executors of a will purported to convey by deed to one of them, in consideration of a sum of money, a house to which the latter was entitled under the will, *held* the deed having been drawn up in the form of a conveyance was liable to stamp-duty as such. 7 M. 350 (F.B.). W

## (7) Assignment of mortgage in consideration of Rs. 5 and agreement to withdraw the suit.

See S. 610. See, *herson*, 33 B. 426 under S. 2 (5), *supra*. X

## (8) Assignment by way of collateral security without consideration.

An assignment, by way of collateral security, without any consideration of being settled as a sum of money, endorsed on a Policy of insurance was not chargeable with any stamp-duty under Act XVIII of 1869, as 'conveyance' but only as a collateral instrument not otherwise provided for. *Per* Markby and Ainslie, JJ., in 3 C. 347. Y

It was not chargeable with any duty because a Policy of Insurance was not 'policy.' *Per* Garth, C.J., *ibid*. Z

63. TRANSF OF LEASE 1 | *Imperial, Bombay, C. Prov., Bengal,*  
by way assignment and | *Madras, Punjab, Assam, U. Prov.—*  
not by of under-lease. | The same duty as a Conveyance  
 | (No. 23), for a consideration equal  
 | to the amount of the considera-  
 | tion for the transfer.

*Exemption.*

Transfer of lease exempt  
from duty.

## NOTES.

## Old Acts:—

Act I of 1879, Art. 1).

## 1.—"Transfer of lease."

## (1) Conveyance of land, and transfer of lease-hold interests.

See 23 C. 288 noted Art. 62, *supra*. A

## (2) Sale of a share in partnership - Lease-hold assets.

Where a deed is in substance a sale of a share of a partnership and a share in a lease is a part of assets of the partnership, it should be regarded not as a transfer of the whole of the share of the partnership. 12 C. 382. B

## (3) Assignment of lease-hold property for money consideration.

Where certain lease-hold property demised by the Secretary of State to the original lessee was assigned by the latter to a third party, for a sum certain, and the assignee agreed to pay rent reserved by the original lease to the Government; *held*, the deed of assignment was chargeable with duty calculated on the amount for which assignment was made (i.e., the purchase-money. 24 B. 257 = 2 Bom. L. 31. C

## (4) Endorsement of transfer, on a lease itself without stamp.

—*Held* inadmissible in evidence 11 W.R. 265; 3 B.L.R. App. 30. D

## (5) Lease-hold interest in two colonies transferred by deed.

Where two coffee estates, open on land held under a lease for fifty years, together with the mining therein also held under a lease for 48 years, were transferred by deed for the residue of those terms, the deed was *held* to be a transfer of interests created by leases under art. 60 of Act I of 1879. Now the deed is chargeable as conveyance for a consideration equal to the amount of the consideration for the transfer. 5 M. 15. E

## 64. TRUST 1.

A.—DECLARATION OF—of, or concerning, any property when made by any writing not being a WILL.

*Imperial, Bombay, C. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.

*For Bengal, Madras, Punjab, Assam:*—The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding twenty-two rupees and eight annas.

*For U. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding twenty-two rupees and eight annas.

B.—REVOCATION OF—of, or concerning, any property when made by any instrument other than a WILL.

*Imperial, Bombay, C. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.

*For Bengal, Madras, Punjab, Assam:*—The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.

*For U. Prov.*—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.

See also SETTLEMENT (No. 58).

VALUATION. See APPRAISEMENT (No. 8).

VAKIL. See ENTRY AS A VAKIL (No. 30).

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, arts. 25 and 26.

—XVIII of 1869, Sch. ii, art. 36.

## 1.—“Trust.”

## (1) Settlement for charitable purpose.

See 20 B. 10 noted under S. 2 (24), *supra*.

F

## (2) Declaration of Trust.

Where certain persons agreed to transfer the future surplus profits of their respective trades to a trustee in order that the latter may hold the fund so constituted in trust for a specified purpose declared in the instrument, *held* the agreement was liable to stamp-duty as a declaration of trust. 11 M. 216 (S.).

G

## (3) Donor to be maintained out of lands gifted.

Where a donor was directed in a deed of gift to maintain the donor out of the lands given, *held*, the instrument was liable to duty as a deed of gift and not as a declaration of trust. 12 M. 89 (F. B.).

H

## (4) Deed of Trust—Security in respect of specified property.

See 38 M. 646 = M.L.J. 313 = 21 Ind. Cas. 476 noted, under S. 2 (17), *supra*. I

65. WARRANT FOR GOODS, *Imperial*.—Annas Four.

that is to say any instrument evidencing the title of any person therein named, or his signs, or the holder thereof to the property in goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.

*For Bengal, Madras, Punjab, Assam, U. Prov.*—Annas Six.

*For Bombay*.—Annas Eight.

## NOTES.

## Old Acts:—

This article was—Act I of 1879, Sch. i, art. 61.

—XVIII of 1869, Sch. ii, art. 10.

—X of 1881, Sch. A, art. 66.

## SCHEDULE II.

\* \* \* \* \*

## Legislative Changes—Imperial.

[1] Schedule II was repealed by Act X of 1914.

# APPENDIX I-A.

## STAMP RULES, 1925.

No. C-68, dated 5th May, 1925.—In exercise of the power conferred by the Indian Stamp Act, 1899 (II of 1899), and in supersession of the notification of the Government of India in the Finance Department, No. 1140—dated the 14th August, 1914, and of all notifications amending the same, the Governor General in Council is pleased to make the following rules, namely:—

### RULES UNDER THE INDIAN STAMP ACT.

#### CHAPTER I.

##### *Preliminary.*

Short title. 1. These rules may be called the Indian Stamp Rules, 1925.

Definitions. 2. In these rules—

- (a) "The Act" means the Indian Stamp Act, 1899 (II of 1899).
- (b) "Section" means a section of the Act.
- (c) "Schedule" means a schedule of the Act.
- (d) "Superintendent of Stamps" means the Superintendent of Stamps, Madras, Bombay, Karachi, Rangoon or Nagpur, and in any other of the Financial Commissioner, Punjab, and any other officer appointed by the Local Government to perform the functions of a Superintendent of Stamps.

Description of stamps. 3. (1) Except as otherwise provided by the Act or by these rules—

- (i) all duties with which any instrument is chargeable shall be paid, and such payment shall be indicated on the instrument, by means of stamps issued by Government for the purpose of the Act, and
- (ii) a stamp which by any word or words or by the face of it is appropriated to any particular kind of instrument, shall not be used for an instrument of any other kind.

(2) There shall be two kinds of stamps for the payment of duty with which instruments are chargeable, namely:—

- (a) impressed stamps, and
- (b) adhesive stamps.

#### CHAPTER II.

##### *Of Impressed Stamps.*

4. (1) Hundis, other than hundis which are stamped with an adhesive stamp under section 3, shall be written on paper as follows, namely:—

- (a) A hundi payable otherwise than by cash, and but not at more than one year after date or sight, and the amount not exceeding rupees thirty thousand in value, shall be written on paper on which a stamp of the proper value bearing the year and the month in which it has been engraved or embossed.
- (b) A hundi for an amount exceeding rupees thirty thousand in value, or payable at more than one year after date or sight, shall be written on

paper supplied for sale by the Government, to which a label has been affixed by the Controller of Printing, Stationery and Stamps at Calcutta, or a Superintendent of Stamps, and impressed by such officer in the manner prescribed by rule 11.

(2) Every sheet of paper on which a hundi is written shall be not less than 8½ inches long and 5½ inches wide and no plain paper shall be joined thereto.

(3) The provisions of sub-section (1) of rule 7 shall apply in the case of hundis.

Promissory notes and bills of exchange. 5. A promissory note or bill-of-exchange shall, except as provided by section 11 or by rules 13 and 17, be written on paper on which a stamp of the proper value, with or without the word 'hundi', has been engraved or embossed.

Other instrument. 6. Every instrument chargeable with duty shall, except as provided by section 11 or by rule 13, be written on paper on which a stamp of the proper value, not bearing the word 'hundi' has been engraved or embossed.

Provision where single sheet of paper is insufficient. 7. (1) Where two or more sheets of paper on which stamps are engraved or embossed are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each sheet so used.

(2) Where a single sheet of paper, not being paper bearing an impressed hundi stamp, is insufficient to write the entire instrument being written on the side of the paper which bears the stamps, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument:

Provided that in every such case a substantial part of the instrument shall be written on the sheet which bears the stamp before any part is written on the plain paper subjoined.

One anna and two annas impressed stamps. 8. The duty on any instrument which is chargeable with a duty of one anna under the Act or of two annas under Articles 5, 19, 36, 37, 43, 49, 2 of Schedule I, may be denoted by a coloured impression on a skeleton form of such instrument by the Controller of Printing, Stationery and Stamps at Calcutta or the Superintendent of Stamps.

9. The officers specified in Appendix I and any officer appointed in this behalf by the Local Government of a Governor's Province, are empowered to affix and impress labels and each of them shall be deemed to be 'the proper officer' for the purposes of the Act and of these rules.

Affixing and impressing of labels by proper officer permissible in certain cases. 10. A stamp may be affixed and impressed by the proper officer in any case of any of the following instruments, namely:—

- (i) those specified in Appendix II, and the counterparts thereof other than instruments on which the duty is less than two annas; and
- (ii) those specified in Appendix II, when written in any European language and accompanied, if the language is not English, by a translation in English:

Provided that the Local Government may direct that this rule shall apply, subject to any conditions which it may subordinate to, to agreements or memoranda of agreements, such as are specified in Appendix III, when written in any Oriental language.

11. (1) The proper officer shall, upon any instrument specified in rule 10 being brought to him before it is executed, and upon application being made to him, affix thereto a label or labels of such value as the applicant may require and pay for, and impress such label or labels by means of a stamping-machine, and also stamp or write on the face on the label or labels the date of impressing the same. In the case of instruments written on parchment, the labels shall be further secured by means of metallic eyelets.

(2) On affixing any label or labels under this rule, the proper officer shall, where the duty amounts to rupees five or upwards, write on the face of the label or labels his initials, and, where the duty amounts to rupees twenty or upwards, shall also attach his usual signature to the instrument immediately under the label or labels.

(3) The following officers may discharge the functions of the proper officer under sub-rule (2), namely:—

- (i) Any principal assistant of the proper officer empowered by the Local Government in this behalf;
- (ii) In Calcutta, the Deputy Collector and the Superintendent of the Stamp Department of the Collector's office;
- (iii) In Karachi, the Assistant Superintendent of Stamps;
- (iv) In Lahore, the head or any other Assistant for the being in charge of the stamping work in the Financial Commissioner's Office.

12. (1) Instruments executed in British India and requiring to be stamped after their date in British India (other than instruments which, under section 11 or rule 13, may be stamped with adhesive stamps) shall be stamped with impressed labels.

(2) Where any such instrument as aforesaid is tendered to the Collector under section 18, sub-section (2), the Collector, unless he is himself the proper officer, shall send the instrument to the proper officer, remitting the amount of duty paid in respect thereof, and the proper officer shall stamp the instrument in the manner prescribed by rule 11, and return it to the Collector for delivery to the person by whom it was produced.

### CHAPTER III.

#### *Of Adhesive Stamps.*

Use of adhesive stamps on certain instruments.

13. The following instruments may be stamped with adhesive stamps, namely:—

- (a) Bills-of-exchange payable otherwise than by cash and drawn in sets, when the amount of duty does not exceed one anna part of the set,
- (b) Transfers of debentures of public companies and associations.
- (c) Copies of maps and plans and printed documents when chargeable with duty under Article 24 of Schedule I.
- (d) Instruments chargeable with duty under Articles 5 (a) and (b) and 43 of Schedule I.
- (e) Instruments chargeable with stamp duty under Article 47 of Schedule I.
- (f) Instruments chargeable with stamp duty under Articles 19, 36, 37, 49 (a) (ii) and (iii) and 52 of Schedule I.

13-A. Notwithstanding anything contained in these rules, whenever the Stamp duty payable under the Act in respect of an instrument cannot be paid exactly by



reason of the fact that the necessary stamps are not in circulation, the amount by which the payment of duty shall on that account be in defect shall be made up by the affixing of one-anna and half-anna adhesive stamps such as are described in rule 16, provided that a Local Government may direct that instead of such stamps adhesive court-fee stamps shall be used for the purpose.

14. When any instrument of transfer of shares in a Company or Association is written on a sheet of paper on which a stamp of the proper value is engraved or embossed, and the value of the stamp so engraved or embossed is subsequently, in consequence of a rise in the value of such shares, found to fall short of the amount of duty chargeable under Article 62 (a) of Schedule I, one or more adhesive stamps bearing the words 'Share Transfer' may be used to make up the amount required.

15. Stamps denoting the duty chargeable on entry as an Advocate, Vakil or Attorney on the roll of any High Court shall be affixed under the superintendence of a gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps or other officer appointed in this behalf by the Local Government and account to him for it. Such gazetted officer shall, after affixing the stamp, write on the face of it his usual signature with the date thereof.

16. Except as otherwise provided by these rules, the adhesive stamps used to denote duty shall be the requisite number of stamps bearing the words 'Four annas' or 'Two annas' or 'One anna' or 'Half anna' and such stamps may be prescribed for use either for postage or for revenue, or for both postage and revenue.

17. The following instruments when stamped with adhesive stamps shall be stamped with the following description of such stamps, namely:—

(a) Bills-of-exchange, cheques and promissory notes drawn or made out of British India and chargeable with a duty of more than one anna: with stamps bearing the words 'Foreign'.

(b) Separate instruments of transfer of shares and transfers of debentures of Public Companies and Associations: with stamps bearing the words 'Share Transfer.'

(c) Entry as an Advocate, Vakil or Attorney on the roll of any High Court: with stamps bearing the words 'Advocate,' 'Vakil' or 'Attorney,' as the case may be.

(d) Notarial acts: with stamps bearing the word 'Notarial.'

(e) Copies of maps or plans: printed copies certified to be true copies: with court-fee stamps.

(f) Instruments chargeable with stamp duty under Articles 5 (a) and (b) or 43 of Schedule I: with stamps bearing the words 'Agreement' or 'Broker's Note' respectively.

(g) Instruments chargeable with stamp-duty under Article 47 of Schedule I: with stamps bearing the word "Inst."

#### CHAPTER IV.

##### ANNUAL.

18. When an instrument bears a stamp of proper amount, but of improper description, the Collector may, on payment of the duty with which the instrument is chargeable, certify by endorsement that it is duly stamped:

Provision for cases in which improper description of stamp is used.

Provided that, if application is made within three months of the execution of the instrument, and the Collector is satisfied that the improper description of stamp was used solely on account of the difficulty or inconvenience of procuring the proper description, he may remit the further payment of duty prescribed in his rule,

19. The Collector may require any person claiming a refund or renewal under Chapter V of the Act or his duly authorized agent, to make an oral deposition on oath or affirmation, or to file an affidavit, setting forth the circumstances under which the claim has arisen and may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in any such deposition or affidavit.

20. When an application is made for the payment, under Chapter V of the Act, of an allowance in respect of a spoiled or misused stamp, or on the renewal of a debenture, and an order is passed by the Collector sanctioning the allowance or ordering for further evidence in support of the application, the amount of the allowance or the stamp given in lieu thereof is not taken, or if the further evidence required is not furnished, as the case may be, by the applicant within one year of the date of such order, the application shall be struck off, and the spoiled or misused stamp (if any) sent to the Superintendent of Stamps or other officer appointed in his behalf by the Local Government for destruction.

Mode of cancelling original debenture on refund under section 55.

21. When the Collector makes a refund under section 55, he shall cancel the original debenture by writing on or across it the word 'cancelled' with his usual signature with the date thereof.

22. On the conviction of any offender under the Act, the Collector may grant to any person who appears to him to have contributed thereto a reward not exceeding such sum as the Local Government may fix in this behalf.

Rewards.

#### APPENDIX I.

*Proper officers within the meaning of section 9.*

1. The Superintendent of Stamps.
2. The Superintendent of Stamps (Political Resident).
3. The Collector of Stamp Revenue, Calcutta.
4. The Collector, or, in the absence of the Collector, from headquarters, the Treasury Officer of each of the following Districts, or

  - (1) Godavari.
  - (2) Tinnevely.
  - (3) Malabar.
  - (4) South Canara.
  - (5) Chittagong.

5. The Treasury Officers, Moulmein, Akyab, and Bassein.
6. The Deputy Tahsildar and the Sub-Collector or Magistrate at Cochin in respect of any instrument for which the value of the labels required does not exceed fifty rupees, and the Deputy Tahsildar and the Sub-Collector or Magistrate at Kottayam in respect of any instrument for which the value of the labels required does not exceed one rupee.
7. The Assistant Superintendent of Stamps.

## APPENDIX II.

*List of Instruments referred to in Rule 10 (i)*

	No of Article in Schedule I
1. Administration bond ... ..	2
2. Affidavits ... ..	4
3. Appointments made in execution of a power ... ..	7
4. Articles of Association of a Company ... ..	10
5. Articles of clerkship ... ..	11
6. Bills of lading ... ..	14
7. Charter parties ... ..	20
8. Declarations of trust ... ..	64-A
9. Instruments evidencing an agreement relating to (1) the deposit title-deeds or instruments constituting or being evidence of the title, to any property whatever (other than a marketable security) or (2) the pawn or pledge or hypothecation of moveable property ... ..	6
10. Leases printed or lithographed in an Oriental language, when the written matter does not exceed one-fourth of the printed matter ... ..	35
11. Memoranda of Association of Companies ... ..	39
12. Mortgages of ships ... ..	41
13. Notes of property Masters of ships ... ..	44
14. Revocations of trust ... ..	64-B
15. Share warrants issued by a company in accordance with section 43 of the Indian Companies Act, 1913 (VII of 1913) ... ..	59
16. Warrants for goods ... ..	65
17. Notes or memoranda when the duty payable exceeds two annas ... ..	43-B

## APPENDIX III.

*List of Instruments referred to in Rule 10 (ii).*

1. Agreements or memoranda of agreements which, in the opinion of the proper officer, cannot conveniently be written on sheets of paper on which the stamps are engraved or embossed ... ..	5
2. Instruments engrossed on parchment and written in the English style which, in the opinion of such officer, cannot conveniently be written on sheets of paper on which the stamps are engraved or embossed ... ..	...
3. Award ... ..	12
4. Bills of exchange payable otherwise than on demand and drawn in British India ... ..	13 (b) and (c)
5. Bonds ... ..	15, 16, 26, 34, 56 & 57
6. Certificates of sale ... ..	18
7. Composition deeds ... ..	22
8. Conveyances ... ..	23
9. Instrument, imposing a further charge on mortgaged property. ... ..	32

	No. of Article in Schedule I.
10. Instruments of apprenticeship ... ..	9
11. Instruments of partnership ... ..	46-A
12. Instruments of dissolution of partnership ... ..	46-B
13. Instruments of exchange ... ..	31
14. Instruments of gift ... ..	33
15. Instruments of partition ... ..	45
16. Leases ... ..	35
17. Letters of license ... ..	38
18. Mortgage deeds ... ..	40
19. Powers-of-attorney ... ..	48
20. Re-conveyances of mortgaged property ... ..	54
21. Releases ... ..	55
22. Settlements ... ..	58
23. Transfers of the description mentioned in Article 62 <sup>1</sup> clauses (c), (d) and (e) of Schedule I ... ..	62 (c), (d) and (e)

## APPENDIX I-B.

### RATES OF EXCHANGE UNDER SECTION 20.

*Published in the Gazette of India, January 13, 1923, part I, page 28.*

No. 342, dated the 13th January, 1923.—In exercise of the power conferred by section 20, subsection (2) of the Indian Stamp Act, 1899 (II of 1899) and of all other powers in this behalf and in supersession of the notification of the Government of India in the Department of Finance and Commerce, No. 787—S. R., dated the 17th January, 1899, as subsequently amended, the Governor-General in Council is pleased to prescribe the following rates of exchange for the conversion of the currencies hereinafter specified respectively into the currency of British India for the purpose of calculating ad valorem duty on instruments chargeable therewith.

Currency.	Sum.	Equivalent in Currency of British India.
British	£1 Sterling	Rupees 15.
French	1 Franc	2-11 of a rupee i.e. 82-1/2 francs = Rupees 15.
German	1 Mark	1/1,000,000,000,000 of a rupee that is Marks 15,000,000,000,000 = Rs. 15.
United States or Canadian	1 Dollar	Rupees three.
Chinese	1 Taal	Rupees two.
British Asiatic possession	1 Dollar*	Rupees One annas two.
Mexican	1 Dollar*	
Japanese	Yen	
Persian	1 Kuran	Annas four.

\* That is the British Dollar and the Mexican Dollar which are in current use in the Straits Settlements and elsewhere.

## APPENDIX II.

### REDUCTIONS AND REMISSIONS OF STAMP DUTY IN CERTAIN CASES.

FINANCE DEPARTMENT—SEPARATE REVENUE—STAMP, NON-JUDICIAL.

*Simla, the 16th July 1909.*

No. 3616-Exc.—In exercise of the powers conferred by section 9, clause (a), of the Indian Stamp Act, 1899 (II of 1899), and in supersession of previous notifications issued from time to time under the said clause of the said Act, the Governor-General in Council is pleased to reduce, to the extent set forth in each case, the duties chargeable under the said Act in respect of the instruments hereinafter described under Nos. 3, 4, 10, 20, 22, 56, 70, 71, 73 and 80 and to remit the duties so chargeable in respect of instruments of the other classes hereinafter described:—

#### A.—LAND REVENUE.

##### *General.*

1. Lease or counterpart thereof executed at the time of settlement made directly by the Government with the existing occupant of land, whether a Zamindar or a tenant, and whether self-cultivating or not :

Provided that no fine or premium is paid in consideration of the lease.

2. Agreement of the kind described in the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879), section 43.

3. Promissory note payable on demand to a certain person, and not to order or bearer, when such note is executed by an agriculturist, and is attested at the time of execution by a Village Registrar, under section 5 of the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879)—Duty reduced to one-half.

4. Promissory note payable otherwise than on demand, and not payable at more than one year after date or sight to a certain person, and not to order or bearer, when such note is executed by an agriculturist, and is attested at the time of execution by a Village Registrar, under section 57 of the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879)—Duty reduced to the amount of the note under Article No. 13 (b) of Schedule I of the Stamp Act, 1899, on a bill of exchange for the same amount.

5. Instrument executed for the purpose of securing the repayment of a loan made or to be made, under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884), or under any instrument whereby a landlord binds himself to consent to the security of which any such loan repayment, of any land, or interest in land, is made to his tenant.

6. Receipt given by a person for advance of Rs. 20 received by him from the Government under the Agriculturists' Loans Act, 1884 (XII of 1884).

*In Bombay.*

7. Agreement respecting the occupancy of land, whether surveyed or not, and the payment of the land revenue therefor, executed under the Bombay Land Revenue Code 1879 (Bombay Act V of 1879), or any rules made under that Act.

8. Lease granted under rule 31 of the rules published by the Government of Bombay under the Bombay Land Revenue Code, 1879 (Bombay Act V of 1879).

9. Lease granted by the Government under rules made under the Indian Forest Act, 18 (VII of 1878), section 31, or purporting to be so granted, of land situated in protected forest in any of the following villages in the Akola taluka of the district: Ahmednagar in the Presidency of Bombay, namely:—Ambit, Ghatghar, Kumbh, Lohali, Kotul, Pachnai, Panjare, Samrad, Shinganvadi and Uddavne.

10. Agreement or memorandum of an agreement, whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government and to accept rights in other land in exchange for the rights so relinquished—Dut reduced to four annas.

11. Instrument executed by an inamdar in the Bombay Presidency whereby he undertakes to suspend or remit rent due from a tenant or tenants in consideration of a suspension or remission granted by the Government in respect of his own judi or quit rent.

11-A. Instrument executed by a landlord in the Bombay Presidency whereby he agrees to remit rent due from a tenant in consideration of a remission granted by the Government in respect of his own rent.

*In Burma.*

12. Certified copy of a map showing the holdings of cultivators in Burma when furnished to such a cultivator.

13. Instrument executed with the object of securing the repayment of a loan from the public revenues of Upper Burma for any of the purposes described in section 4 of the Agricultural Loans Act, 1884 (XII of 1884).

14. Instrument executed for the purpose of securing the due payment of rent of a fishery leased under section 4, clause (b), of the Burma Fisheries Act, 1875 (VII of 1875), or under section 3, sub-section (3), of the Upper Burma Land and Revenue Regulation, 1889 (1889).

*Central Provinces.*

14-A. Bail-bond executed by a surety to produce a person on whom a bailable warrant of arrest has been issued under section 20 (3) of the Central Provinces Land Revenue Act, 1917.

15. Conveyance by endowment of rights secured by an instrument known as a "Satta."

16. Copy or extract certified by a patwari to be a true copy of, or a true extract from, records or papers, when any rule made by the Chief Commissioner is required to prepare or keep by him, under the Central Provinces Land Revenue Act, 1881 (XVIII of 1881), section 4, where the copy or extract is furnished by a patwari to a malguzar or tenant in the village with which the copy or extract is concerned.

17. Patta granted by an officer of the Government or by any assignee of Government revenue in the Madras Presidency under raiyatwar settlement.

*In the United Provinces of Agra and Oudh.*

18. Agreements of the kinds described in section 41, sub-section (1), clause (a) and in section 47, clause (a) of the North-West Provinces Tenancy Act, 1801 (United Provinces Act II of 1901) with respect to the enhancement of the rent of an ex-proprietary occupancy or non-occupancy tenant.

19. Authority in writing to distrain referred to in section 75 of the Oudh Rent Act, 1886 (XXII of 1886) and in section 120, clause (g) of the Agra Tenancy Act, 1901 (United Provinces Act II of 1901).

20. Mortgage deed executed afresh in lieu of a previous mortgage deed for the purpose of giving effect to the provisions of section 9, sub-section 1) of the Bundelkhand Alienation of Land Act, 1903 (United Provinces Act II of 1903):—So much of the duty remitted as is not in excess of the duty already paid in respect of the previous mortgage-deed.

*In the Punjab and the North-West Frontier Province.*

21. Copy of the map or plan certified to be a true copy of map or plan prepared or maintained under Chapter IV of the Punjab Land Revenue Act, 1887 (XVII of 1887) whether such copy is granted under rule 23 or rule 314 of the rules under the said Act :

Provided that the copy is supplied for the private use of the person applying for it, and that it is not used or intended to be used as evidence in a Court of Justice or before any public officer.

22. Mortgage-deed executed afresh in lieu of a previous mortgage deed for the purpose of giving effect to the provisions of section 9, sub-section (2) of the Punjab Alienation of Land Act, 1900 (XIII of 1900):—So much of the duty remitted as is not in excess of the duty already paid in respect of the previous mortgage-deed.

23. Instrument of the kind referred to in section 8, sub-section (1), clause (b) of the Punjab Laws Act, 1872 (IV of 1872), as amended by section 2 of the Punjab Descent of Jagirs Act, 1900 (Punjab Act IV of 1900), and in section 40, sub-section (1), clause (b) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901).

*In Eastern Bengal and Assam.*

24. Agreement or counterpart of an agreement entered into in the course of arrangements made by the Government in Assam for the collection of land revenue and cesses.

25. Security bond or mortgage deed executed by a person who has entered into an agreement to collect and pay in land revenue cesses, or by the surety of such a person to secure the due accounting for money collected by that person under such agreement.

*In Bengal.*

26. Instrument executed by members of the Mundari and of other aboriginal tribes of the Ranchi district as security for the repayment of advances received by them from the Government under the provision of section 7, sub-section (1), clause (i) of the Public Demands Recovery Act (Bengal Act I of 1895), for the purpose of redeeming their holdings.

**B.—OPIUM, EXCISE, HEMP DRUGS.**

27. Receipt given by an opium cultivator or his representative or by a lambardar or Khattadar in the Behar and Benarases for money paid to him by the Government as an advance for the cultivation of opium.

28. Bond when executed by the surety of a middleman (lambardar or khattadar) taking an advance for the cultivation of the poppy for the Government,



29. Agreement or memorandum of agreement made by a raiyat or by a middleman (lambardar or khattadar) for the cultivation of the poppy for the Government.

30. Power-of-attorney executed in favour of a lambardar or khattadar by an opium cultivator, who does not attend personally to receive an advance or to enter into a contract for the cultivation of the poppy for the Government.

31. Instrument of the nature of a mortgage-deed when executed by the surety of a middleman (lambardar or khattadar) taking an advance for the cultivation of the poppy for the Government.

32. Security bond or mortgage-deed for the fulfilment of any contract deed for the supply of weighment articles in use in the Behar and Benares Opium Agencies.

33. Contract deed for the supply of weighment articles in use in the Behar and Benares Opium Agencies.

34. Agreement or memorandum of agreement made by a raiyat for, or in respect of, the cultivation of the hemp plant in the district of Rajshahi.

35. Agreement or memorandum of agreement for the cultivation of the hemp plant made by a cultivator in the Madras Presidency.

#### C.—FOREST DEPARTMENT.

36. Agreement and security bond required to be executed, under the rules to regulate the training and appointments in the Subordinate Forest Service by a student and his surety previous to his entry into the Imperial Forest School, Dehra Dun, or the Burma Forest School, Rangoon or the Madras Forest College, Coimbatore.

37. Instrument in the nature of a conveyance by the Government of standing trees or any other forest produce in a Government forest.

#### E.—EDUCATION DEPARTMENT.

37-A. Agreements and security bonds required to be executed by the holders of Government scholarships and stipends in Training Institutions for teachers or in Girls' schools or Training Institutions for school mistresses in Assam.

37-B. Agreement and security bond required to be executed by the holders of scholarships and stipends on their admission to any Government Training College or Normal School or to any Girls' Vernacular or Anglo-Vernacular School in the Central Provinces. The exemption hereby conceded has effect from the 1st January 1916.

37-C. Agreements and security bonds required to be executed by holders of stipends on their admission to a Government or other Training Institution recognized by the Educational Department in the Madras Presidency.

37-D. Agreements and security bonds required to be executed by stipendiary and non-stipendiary students (or in the case of minors, their parents or guardians) on their admission to any Normal School in Burma. The exemption hereby conceded has effect from 1st July 1916.

37-E. Agreements and security bonds required to be executed by holders of scholarships and stipends on their admission to any Government Training College or Normal School or to any Girls' Vernacular or Anglo-Vernacular School in the United Provinces.

37-F. Agreement and security bonds required to be executed by the holders of scholarships and stipends on their admission to any Vernacular Training College or Normal School in the Bombay Presidency or the Tanjore Training School at Hyderabad.

37-G. Agreement and security bond required to be executed by the holders of scholarships and stipends on their admission to any Government Training College or Class or to any Normal School or to any Girls' Vernacular or Anglo-Vernacular School in the Bengal Presidency.

37-H. Bond required to be executed by persons selected for State Technica Scholarships.

#### D.—MEDICAL DEPARTMENT.

38. Security bond taken under the authority of the Government from a medical student of the Apothecary, Assistant Surgeon, or Hospital Assistant class, and his surety, or from the surety of such a student.

#### VETERINARY DEPARTMENT.

38-A. Agreement and security bonds required to be executed by a student and his sureties previous to his entry into the Madras Veterinary College.

#### E.—POST OFFICE AND TELEGRAPH DEPARTMENT.

39. Letter which a person depositing money in a Post Office Savings Bank, as security to the Government or a local authority for the due execution of an office or for the fulfilment of a contract or for any other purpose, is required to address to the Postmaster in charge of the Post Office Savings Bank agreeing to special conditions with respect to the application and withdrawal of the money deposited and the payment of interest accruing due thereon.

40. Receipt given by, or on behalf of, a depositor in a Post Office Savings Bank for a sum of money withdrawn from any such Bank.

41. Receipt endorsed by the payee on a postal Money Order.

42. Receipt given by the addressee for a deposit exceeding twenty rupees made for the payment of a reply to a telegraphic message.

#### F.—RAILWAYS AND INLAND STEAMER COMPANIES.

43. Agreement made with a Railway Company or Administration or an Inland Steamer Company for the conveyance of goods.

44. Agreement or indemnity bond given to a Railway authority or an Inland Steamer Company by a passenger permitted to travel without payment of fare, indemnifying such authority or Company from any claim for damages in case of accident or injury.

45. Agreement or indemnity bond given to a Railway authority or an Inland Steamer Company by a consignee (when the railway receipt or bill of lading is not produced) in respect of the delivery of articles carried at half parcels rates or at goods rates, namely, fresh fish, fruits, vegetables, bazaar baskets, bread, meat, ice, and other perishable articles.

46. Agreement made with a Railway Company or Administration which purports to limit the responsibility of the Company or Administration as declared by the Indian Railways Act, 1890 (IX of 1890), section 72, sub-section (1), and is in a form approved by the Governor-General in Council under sub-section (2) of that section.

47. Receipt or bill of lading issued by a Railway Company or Administration or an Inland Steamer Company for the fare for the conveyance of passengers or goods, or both, or animals, or given to such Company or Administration or Inland Steamer Company for the refund of an overcharge made in respect of such fare.

47-A. Receipts or bills of lading issued by the Gauhati-Shillong Motor Transport Company, Limited, for the fare for the conveyance of passengers or goods, or both, or receipts given to the said Company for the refund of an overcharge made in respect of such fare.

48. (Cancelled by Government of India Notification No. 1230-F., 23rd February 1912.)

49. Debenture bond of the loan of Rs. 20,00,000 raised by the Government of His Highness the Maharaja of Mysore for the construction of a line of railway from Bangalore to Tipoor, where the said bond is negotiated in British India.

#### G.—GOVERNMENT OFFICERS AND CONTRACTORS.

50. Agreement-paper passed by a contractor of the Supply and Transport Corps where his security deposit is transferred to a Post Office Savings Bank.

51. Instrument in the nature of a memorandum or agreement furnished to, or made or entered into with, a Supply and Transport Officer by a contractor.

52. Agreement or declaration by which a tender made to a Supply and Transport Officer is accepted as contract, where the deposit of the contractor as security for his contract is made in Government of India Promissory Notes or in cash.

53. Instrument in the nature of a memorandum, agreement or security bond furnished to, or made or entered into with, the Revenue Department (in respect of minor irrigation works contracts in the Madras Presidency only), the Ordinance Department, the Army Clothing Department, the Forest Department, the Military Farms Department or the Public Works or State Railway Department by a contractor for the due performance of his contract.

53-A. Agreement and security bond executed by contractors in respect of village chavadies and cattle pounds in the Madras Presidency.

54. Mortgage-deed executed by an officer of Government in Civil or Military employ for securing the repayment of an advance received by him from the Government for the purpose of constructing or purchasing a dwelling house for his own use.

55. Instrument of reconveyance of mortgaged property executed by Government in favour of an officer in Civil or Military employ on the repayment of an advance received by him from the Government for the purpose of constructing or purchasing a dwelling house for his own use.

56. Agreement which has been or may be entered into in compliance with the rules prescribed by the resolution of the Government of India in the Finance Department (Military Finance), No. 2195-Accts., dated the 25th October 1907, regulating the deposits or regimental funds with private banks or firms or such other rules for that purpose as may hereafter be in force.—Duty reduced to the amount payable in respect of a bond for like amount or value or to Rs. 5, whichever shall be less.

#### H.—OTHER DOCUMENTS.

57. Bill-of-exchange drawn in Mysore on which the full rate of stamp-duty has been paid there, where the same is negotiated in British India.

58. Cheque drawn in Mysore on which the full rate of stamp-duty has been paid there, where the same is negotiated in British India.

59. Receipt given for payment of interest on Government of India Promissory notes.

60. Letter-of-authority or power-of-attorney executed for the sole purpose of authorizing one or more of the joint-holders of a Government security to give on behalf of the other or others of them, or any one or more of them, a discharge for interest payable on such security or on any renewed security issued in lieu thereof.

61. Power-of-attorney furnished to a relative, servant or dependent under the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879), section 68.

62. Copy of an instrument which a Village Registrar has to deliver to a party under the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879), section 58.

63. Agreement executed under the Indian Emigration Act, 1863 (XXI of 1863), section 35, sub-section (1).

64. Contract executed in accordance with the provisions of the Assam Labour and Emigration Act, 1882 (I of 1882), for service in Assam under the Local Government in the Public Works Department or under a District Committee constituted under the Assam Local Rates Regulation, 1879 (III of 1879).

65. Agreements entered into under section 6, sub-section (1) of the Indian Income-tax Act, 1918 (VII of 1918).

66. Sanad of Jagir or other instrument conveying land granted to an individual by the Government otherwise than for a pecuniary consideration.

67. Instrument of exchange executed by a private person where land is given by him for public purposes in exchange for other land granted to him by the Government.

68. Transfer by endorsement of a mortgage of rates and taxes authorized by any Act for the time being in force in British India.

69. Transfer of any of the under noted debentures of the Octacamund Club, namely, Nos. 1 to 188, dated the 31st December 1892; Nos. 189 to 464, 467 to 483 and 485 to 604, dated the 15th January 1893; Nos. 465, 466, 483, 484, and 605 to 810, dated the 25th October 1893; and Nos. 811 and 812, dated the 23rd February 1894.

70. Trust deed entered into in compliance with the rules for the time being in force in the Bombay Presidency, the Punjab, Bengal, Eastern Bengal and Assam, regulating grants-in-aid made by the Government for building purposes to schools and colleges in those provinces.—Duty reduced to the amount payable in respect of a bond for like amount or value, or to Rs. 15 whichever shall be less.

71. Agreement executed for service or for performance of work in any estate not less than ten acres in extent, whether held by one person, or by more persons than one as co-owners, and whether in one or more blocks, and situated in British India or in Mysore, which is being prepared for the production of, or actually produces, tea, coffee, rubber, pepper, cardamom or cinchona where the advance given under such agreement does not exceed fifty rupees.—Duty reduced to one anna.

72. Apprenticeship deed whereby a person is bound apprentice to the Superintendent of Government Printing, India, to learn the business of a distributor or of a compositor.

73. Kabuliyat executed by a Ghatwal of any of the 52 Sarkari Panchaki and Be Panchaki Ghats, or of the 186 Zamindari Panchaki Ghats, in the district of Bankura in Lower Bengal.—Duty reduced to the amount payable in respect of a conveyance for a consideration equal to the amount or value of the average annual rent reserved.

74. Instrument of transfer of shares registered in a branch register in the United Kingdom under the provisions of the Indian Companies (Branch Registers) Act, 1900 (IV of 1900), which has paid the stamp duty leviable thereon in accordance with the law for the time being in force in the United Kingdom.

75. Receipt given by a gangman on a famine relief-work in the Bombay Presidency in respect of sums exceeding Rs. 20 paid to him on account of the wages of relief workers.

76. Agreement between creditor and debtor to refer their claims to arbitration made in the Central Provinces in the course of conciliation proceedings approved by the Local Administration, and the award made in virtue of such agreement.

77. Authority in writing (general or special) authorizing an agent to appear and plead under section 23, sub-section (2), of the United Provinces Village Courts Act, 1892 (United Provinces Act III of 1892) or under section 24 of the Madras Village Courts Act, 1889 (Madras Act I of 1889).

78. Lease of a fishery granted by the Government in Assam.

79. Agreement or counterpart of an agreement entered into by the owner of a "token" animal and the Government in pursuance of any rules for the time being in force under section 31 of the Punjab Military Transport Animals Act, 1903 (Punjab Act I of 1903).

80. Instrument evidencing an agreement relating to the hypothecation of moveable property where such hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan, or of an existing or future debt.—Duty reduced to the amount chargeable on a bill of exchange under article No. 13 (b) of Schedule I of the Stamp Act, 1899, for the amount secured, if such loan or debt is repayable on demand after more than three months from the date of the instrument; and to half that amount, if such loan or debt is repayable not more than three months from the date of the instrument.

81. Instrument executed in the areas mentioned in the schedule hereto attached in respect of which the stamp-duty with which it is chargeable under the Stamp Law, for the time being in force in the said areas has been paid in accordance with the said law.

#### SCHEDULE.

##### *Areas.*

1. Agency territories in Baluchistan.
2. The District of Abu including the road leading from the Abu Sanitarium to Abu Road Railway Station and to the Bazaar at Kharari.
3. The Cantonments of Mhow, Neemuch, Nowgong (including the Civil Lines) and Sehore in the Central India Agency and of Baroda and Deesa.
4. The Indore Residency Bazaars.
5. Railway lands within the limits of the Central India and Rajputana Agencies over which the Governor-General in Council exercises jurisdiction.
6. The areas in the Hyderabad State in which the Governor-General in Council exercises jurisdiction through the Resident at Hyderabad.
7. Berar.
8. The Civil and Military Station of Bangalore.
9. Railway lands in the Mysore State over which the Governor-General in Council exercises jurisdiction.
10. Railway lands in the Baroda State and in States in the political control of the Government of Bombay, over which jurisdiction has been ceded to the British Government and to which the provisions of the Indian Stamp Act, 1899, have been applied.
11. Railway lands in Jammu and Kashmir and in States in the Punjab over which the Governor-General in Council exercises jurisdiction.

# APPENDIX III-A.

## RULES FOR THE SALE OF STAMPS.

### BENGAL AND ASSAM.

The Calcutta Gazette Notification No. 6442 S. R. of 2nd December 1899.

*Calcutta Gazette, Part I, p. 1498.*

I. According to the rules made by the Governor General in Council under the Act, there are two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, namely—

(1) Impressed Stamps including

(a) labels affixed and impressed by the proper officer and

(b) stamps embossed or engraved on stamped paper.

(2) Adhesive stamps.

Stamps of class (1) (a) can be obtained only at the office of the Collector of Calcutta, in accordance with rules 9 to 11 of the Notification of the Government of India mentioned above. Stamps of class (1) (b) and class (2) shall be sold to the public through ex-officio or licensed vendors, in the manner hereinafter prescribed.

II. The Treasurers at the head-quarters of a District, and at sub-divisions the subordinate officer entrusted with the custody and sale of stamps on behalf of Government, shall be ex-officio vendors, and shall sell on behalf of Government stamps embossed or engraved, on stamped paper, and adhesive stamps to licensed vendors and to the public on application.

III. Such persons as may be licensed by the District officers shall be licensed vendors, and shall sell to the public such stamps as are indicated in their licenses.

IV. Every license shall specify the name of the licensee, the description of stamps which may be sold under the license, the place of vend, and such other matters as may be necessary, and shall be signed by the authority granting it. The license shall be revocable at any time by the authority who grants it.

V. Subject to rule VI, every licensed vendor who purchases from Government by payment of ready money, stamps embossed or engraved on stamped paper and adhesive stamps shall receive the same at a discount at the following rates:—

Non-judicial stamps.	At places where stamps are sold by Government.	At other places.
	Per cent. Rs. as. p.	Per cent. Rs. as. p.
<b>Adhesive—</b>		
Stamps not exceeding in value eight annas each ... ..	4 11 0	6 4 0
Exceeding eight annas but not exceeding Rs. 5 each ... ..	2 9 8	3 2 0
Exceeding Rs. 5 but not exceeding Rs. 10 each ... ..	1 9 0	1 9 0
<b>Impressed—</b>		
Hundi Stamps ... ..	4 11 0	6 4 0
Impressed Stamp papers ... ..		

The rates of Rs. 4-11-0 and Rs. 2-9-8 per cent, which are included in the first of the two scales, prescribed, shall in Calcutta be reduced to Rs. 3-2-0 per cent. and Re. 1-9-0 per cent., respectively. The same reduction shall be made in the added Municipal area of Calcutta, comprising Ballygunj and parts of Tollygunj, Bhowanipur and parts of Alipur, Ekbalpore and Watganj as defined in Schedule III of Act III (B.C.) of 1899, the south suburban and Tollyganj Municipalities and the Municipalities of Garden Reach, Maniktola, Cossipore-Chitpur, Baranagar, and Bally, in Patna City, in the towns of Gaya, Chapra, Ohagra, Darbhanga, Bhagalpur, Monghyr, and Outtaok, and in the sadar stations of the districts of Howrah, the 24-Parganas and Hooghly.

VI. No discount shall be given on account of the purchase of any stamp exceeding Rs. 50 in value, nor on any stamp supplied on material furnished by the purchaser himself. Discount shall not be allowed if the total value of the quantity of stamps purchased at one time does not amount to Rs. 25 or upwards.

VII. Licensed vendors alone are allowed discount on the purchase of stamps. No ex-officio vendor is allowed to purchase stamps at a discount for sale on his own account to the public.

VIII. No licensed vendor shall be supplied with stamps on credit without the special sanction of the Government.

IX. Every licensed vendor shall at all times have stuck up in a conspicuous place outside the place of vend, a signboard bearing the name of the vendor, with the words "Licensed vendor of stamps" in English and the vernacular language of the district. He shall also have in the place of his vend, his license and the Acts of the Legislature and their Schedules referring to the stamps sold by him, together with these rules in English placed so that they can readily be seen and read by purchasers.

X. Every ex-officio or licensed vendor shall write at the time of sale in the vernacular language of the district, on the back of every stamp embossed or engraved on stamped paper which he sells, a serial number, the date of sale, the name and residence of the purchaser, and the value of the stamp in full in words and shall affix his signature to the endorsement. At the same time, he shall make corresponding entries in a register to be kept by him in the following form :—

Serial No.	Date of sale.	Value of stamp.			Name and residence of purchaser.	REMARKS.
		Rs.	A.	P.		

No vendor shall knowingly make a false endorsement on the stamp embossed or engraved on stamp paper sold, or a false entry in his register.

Every licensed vendor shall submit this register once in every three months to the District officer, or in a sub-division to the Sub-divisional officer for examination and signature, and shall make it over at the end of the year to the District or sub-divisional officer, as the case may be for deposit in his office.

XI. No ex-officio or licensed vendor shall take for any stamp more than the value denoted thereon, and every such vendor shall without delay deliver any stamp which,

he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the District officer.

XII. No licensed vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

XIII. A licensed vendor shall obtain all the supplies of stamps which he is authorised to sell only from the treasury of the District for which his license was granted, and shall sell stamps only at the place mentioned in his license.

XIV. Every ex-officio vendor shall keep and render such accounts as may be prescribed from time to time by the Board of Revenue.

XV. Every vendor shall allow the District officer or any officer duly authorised by him or by the Local Government and within the compounds belonging to Civil Courts, the District Judge or any Gazetted officer duly authorized by him at any time to inspect his accounts and registers and to examine the store of stamps in his possession.

XVII. In the following cases the full value of the stamps returned into store less one anna in the rupee shall be paid to the stamp vendors:—

- (a) when the vendor resigns his license ;
- (b) when the license is revoked for any fault of the licensee ;
- (c) when the stamps are returned on the death of the vendor ;
- (d) when the stamps are returned on the application of the vendor for leave to restore any stamps.

In the following cases, the full value of the stamps returned into store less only the discount allowed on their sale shall be paid to licensed vendors:—

- (a) when stamps are returned on expiry of the license ;
- (b) when they are recalled by the Government ;
- (c) when the license is revoked for any cause other than the fault of the licensee.

Provided that a licensed vendor may exchange unsold stamps which are fit for use for other stamps of the same kind.

XVIII. When a stamp embossed or engraved on stamped paper is required for any instrument, a single sheet is to be issued of the required value. But if a single stamp of the required value is not available, the number of sheets issued in order to indicate the payment of duty is not to exceed the smallest number which can be furnished, so as to make up the required amount.

XIX. When the application for the required stamp is made to a licensed stamp vendor, and such vendor is unable to furnish a single stamp of the required value, he shall give a certificate\* (see below) to that effect to the purchaser. In making the certificate, such vendor must declare truly (1) that he is unable to furnish a single stamp of the required amount, and (2) that the number of sheets furnished is the smallest number that he can supply, so as to make up the required amount.

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\*The following form is prescribed for the vendor's certificate mentioned in the above rule XIX :—

" Certified that a single stamp of the value of Rs. .... required for this document is not available, and that the smallest number of stamps which I can furnish so as to make up the required amount is as follows....."



XIX. (a) No such certificate is required under similar circumstances from an official stamp vendor, but the latter should carefully observe the same principle of issuing, whenever practicable, a single stamp of the required value, or when from any reason, this is not possible, of furnishing the smallest number of stamps which may make up the required value.

XX. These rules shall come into force from the date of publication of this Notification.

XXI. Nothing in the above rules shall be held to restrict the sale of one-anna or half-anna adhesive stamps.

## APPENDIX III-B.

### RULES FOR THE SALE OF STAMPS.

#### BIHAR AND ORISSA.

Notification No. 26-7-4 of the 8th August 1919 by the Board of Revenue as Chief Controlling Revenue Authority under powers delegated by the Government of Bihar and Orissa.

*Bihar and Orissa Gazette, dated 13th August 1919.*

Stamps to be sold through *ex-officio* or licensed vendors.

1. Stamps for indicating the payment of duty on instruments under the Indian Stamp Act, whether impressed or adhesive, shall be sold to the public through *ex-officio* or licensed vendors in the manner hereinafter prescribed.

Notification No. 1140-F, dated the 14th August 1914.

NOTES.—According to the rules made by the Governor-General in Council under the Act, there are two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, namely—

(1) Impressed stamps, including—

(a) labels affixed and impressed by the proper officer ;

(b) stamps, embossed or engraved on stamped paper.

(2) Adhesive stamps.

Stamps of class (1) (a) can be obtained only at the office of the Collector of Calcutta, in accordance with rules 4 (1) (b) and 9 to 11 of the Notification of the Government of India No. 1140-F, dated the 14th August 1914.

#### APPOINTMENT OF, AND SUPPLY OF STAMPS TO, VENDORS.

2. The Treasurer at the head-quarters of a District, and at sub-divisions the subordinate officer entrusted with the custody and sale of stamps *Ex-officio* vendors. on behalf of Government, shall be *ex-officio* vendors, and shall sell on behalf of Government stamps embossed or engraved on stamped paper and adhesive stamps to licensed vendors and to the public on application.

No *ex-officio* vendor is allowed to purchase stamps at a discount for sale on his own account to the public.

Licensed stamp vendors. 3. Collectors are authorized to grant licenses to private persons for the sale of stamps.

Licenses may be granted to Postmasters with the consent of the Postmaster-General.

NOTE.—In order that the Public may be provided with every facility for readily obtaining stamps in outlying localities where otherwise stamps might not always be easily available, licenses for the sale of stamps of every description should be granted to any respectable and reasonably substantial person who wishes to sell them either as a special business or as an addition to some other business which he carries on. At district and sub-divisional headquarters and in large towns where vendors are readily found, the number of them should be such as to offer reasonable facilities to the public, but it should be limited so as to allow of a moderate income from the sale of stamps being derived by each.

4. Every license shall specify the name of the licensee, the description of stamps which may be sold under the license, the place of vend, and License what to such other matters as may be necessary, and shall be signed by specify. the authority, granting it. The license shall be revocable at any time by the authority who grants it.

5. Licensed vendors shall not sell stamps of any description or at any places other than the descriptions and places mentioned in their licenses and no licensed vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

Stamps may be recalled by the Collector.

6. Every licensed vendor shall, at any time, on the demand of the Collector or any officer duly authorized by him, deliver up all stamps, or any class of stamps, remaining in his possession.

Licensed vendor to obtain supply from treasury only on payment.

7. A licensed vendor shall obtain all the supplies of stamps which he is authorized to sell only from the treasury or a sub treasury of the District for which his license was granted.

No licensed vendor shall be supplied with stamps on credit without the special sanction of Government.

8. Subject to rule 9 every licensed vendor who purchases from Government, by payment of ready money, stamps embossed or engraved on stamped paper, and adhesive stamps, shall receive the Discount. the same at a discount at the following rates :—

	At places where Stamps are sold by Govt.			At other places.		
	Per cent.			Per cent.		
<i>Adhesive—</i>	Rs.	A.	P.	Rs.	A.	P.
Stamps not exceeding in value eight annas each ... ..	4	11	0	6	4	0
Exceeding eight annas but not exceeding Rs. 5 each ... ..	2	9	8	3	2	0
Exceeding Rs. 5 but not exceeding Rs. 50 each... ..	1	9	0	1	9	0
<i>Impressed—</i>						
Hundi Stamps ... ..	4	11	0	6	4	0
Impressed Stamp papers ... ..						

The rates of Rs. 4-11-0 and Rs. 2-9-8 per cent. which are included in the first of the two scales prescribed shall, in Patna City, in the towns of Gaya, Chapra, Darbhanga, Bhagalpur, Monghyr, and Outtauck, be reduced to Rs. 3-2-0 per cent. and Rs. 1-9-0 per cent., respectively.

9. No discount shall be given on account of the purchase of any stamp exceeding Rs. 50 in value, nor on any stamp applied on material furnished by the purchaser himself. Discount shall not be allowed if the total value of the quantity of stamps purchased at one time does not amount to Rs. 25 or upwards.

Refund of value of stamps.

10. (1) In the following cases the full value of the stamps returned into store, less one anna in the rupee, shall be paid to the stamp vendors :—

(a) When the vendor resigns his license.

(b) When the license is revoked for any fault of the licensee.



No vendor shall knowingly make a false endorsement on the stamp embossed or engraved on stamp paper sold, or a false entry in his register.

Licensed vendor to submit the register quarterly for examination, and to make it over for deposit at the end of the year.

14. Every licensed vendor shall submit this register once in every three months to the Collector or in a sub division to the Sub-divisional Officer for examination and signature, and shall make it over at the end of the year to the Collector or Sub-divisional Officer, as the case may be, for deposit in his office.

15. No *ex officio* or licensed vendor shall take for any stamp more than the value denoted thereon, and every such vendor shall without delay deliver any stamp which he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Collector.

16. When a stamp embossed or engraved on stamped paper is required for any instrument, a single sheet is to be issued of the required value. But if a single stamp of the required value is not available, the number of sheets issued in order to indicate the payment of duty is not to exceed the smallest number which can be furnished, so as to make up the required amount

17. When the application for the required stamp is made to a licensed stamp vendor, and such vendor is unable to furnish a single stamp of the required value, he shall give a certificate to that effect to the purchaser in the form below. In making the certificate, such vendor must declare truly (1) that he is unable to furnish a single stamp of the required amount, and (2) that the number of sheets furnished is the smallest number that he can supply, so as to make up the required amount.

#### FORM OF CERTIFICATE.

"Certified that a single stamp of the value of Rs.....required for this document is not available, and that the smallest number of stamps which I can furnish so as to make up the required amount is as follows.....".

No such certificate is required under similar circumstances from official stamp-vendors but they shall, as far as practicable, follow the above instructions.

#### FORM OF LICENSE FOR THE VENDOR OF STAMPS UNDER ACT II OF 1899.

To  
son of

resident of

You are hereby authorized, agreeably to the provisions of the rules issued by the Board of Revenue under section 74 of Act II of 1899, read with section 76-A of the said Act and Bihar and Orissa Government Notification No. 9063-F., dated the 9th July 1915, to sell general stamps under the conditions herein set forth at

1. Adhesive stamps, and stamps embossed or engraved on stamped paper used under the Indian Stamp Act of 1899, of value not exceeding Rs. 50 each shall only be sold under this license; these you shall obtain only from the Government Treasury at

2. You will note on the back of every stamp embossed or engraved on stamped paper you sell the serial number, date of sale, name and residence of the purchaser, and in the vernacular language of the district the value of the stamp in full, in words

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and affix your signature to this endorsement. These particulars you will also note in your sale register, to be kept in such form as may be from time to time prescribed.

3. You shall keep the register above referred to in volumes, and commence a new one every year. In the beginning of each volume you shall enter your name, the date from which it is in use and the number of pages it contains, each page being numbered. You shall submit this register to the Collector, or, in a sub-division, to the Sub-divisional Officer, for the purpose of being examined and signed by him every three months, and at the end of each year you shall make it over to him to be deposited in his office.

4. You shall not knowingly make a false endorsement on a stamp sold or a false entry in your register.

5. You are required to deliver any stamp in your possession for sale that may be demanded on tender of its value in Government coin or currency notes.

6. You shall not sell any stamps, the use of which has been ordered by competent authority to be discontinued, or take for any stamp more than the value denoted thereon.

7. You shall at all times have posted in a conspicuous position outside the place of vend a signboard bearing your name with the words *Licensed Vendor of Stamps* in English and in the vernacular language of the district. You shall also have on view in the place of vend your license; and you shall have there, for ready reference by the purchasers, the Acts of the Legislature and their Schedules referring to the stamps sold by you, together with rules for regulating the sale of general stamps framed under section 74 of the Indian Stamp Act in the said vernacular (and in English also when so directed by the Collector), placed so that they can readily be seen and read by purchasers.

8. You shall keep and render such accounts as may be prescribed by the Board of Revenue and shall allow the Collector or any other person duly authorized by him or by the Board of Revenue, and, within the compounds belonging to the Civil Courts, the District Judge or any gazetted officer duly authorized by him, at any time to inspect such accounts and the register already referred to and to examine the store of stamps in your possession.

9. Your license is revocable without cause shown at any time and any infraction of these conditions is punishable under section 69 of Act II of 1899.

*Dated*

*District of*

*Collector,*

*or Deputy Commissioner.*

## APPENDIX III-C.

### RULES FOR THE SALE OF STAMPS.

#### BOMBAY.

Bombay Government Notification, No. 758 of 27th January 1910.

*Bombay Government Gazette, Part I, page 189.*

In exercise of the powers conferred by section 74 of the Indian Stamp Act, 1899 (II of 1899) and in supersession of the rules published in Government Notification in the Revenue Department, No. 5311, dated the 13th September, 1881, the Governor in Council is pleased to make the following rules for regulating the supply and sale of stamps, namely :—

I. For the purposes of these rules stamps are divided into—

(1) Impressed stamps including—

(a) labels affixed and impressed by the proper officer;

(b) stamps embossed or engraved on stamped paper.

(2) Adhesive stamps.

Stamps of class (1) (a) can be obtained only at the offices of the Superintendents of Stamps, Bombay, Karachi and Aden, and such labels shall be affixed and impressed as laid down in rules 9 to 11 of the rules published in the Notification of the Government of India in the Finance Department No. 2632-Exo. dated the 29th June 1906. Stamps of class (1) (b) and class (2) shall be sold to the public by ex-officio or licensed vendors in the manner hereinafter prescribed.

II. Adhesive stamps shall be sold as follows :—

(a) Unified half-anna and one-anna stamps and Foreign Bill and Share Transfer stamps and stamps on instruments chargeable with stamp duty under Article 47 of Schedule I, by ex-officio and licensed vendors ;

(b) Stamps for Notarial acts, by ex-officio vendors only.

III. (1) Government may appoint certain officers to be ex-officio stamp vendors

(2) Ex-officio stamp vendors shall, subject to rules I and II, sell such stamps as may be directed.

(3) The Treasurer of each local treasury and sub-treasury shall be an ex-officio stamp vendor.

IV. (1) In the Presidency Town there shall be two ex-officio vendors of stamps who shall be members of the establishment of Stamps, Bombay.

(2) One such ex-officio vendor shall sell only stamps embossed or engraved on stamped paper and hundi papers with labels affixed and impressed by the proper officer.

(3) The second ex-officio vendor shall sell adhesive stamps.

V. (1) The Collector or any other officer empowered by Government in this behalf may appoint certain persons to be licensed stamp vendors.

(2) Licensed stamp vendors shall, subject to rules I and II, sell such stamps of such values as may be indicated in their licenses.

VI. Whenever it is deemed necessary for the convenience of the public that a license should be granted for the sale of stamps embossed or engraved on stamped paper of the value of Rs. 50 or upwards, the sanction of Government shall be obtained.

VII. Every license granted under Rule V shall be in the following form :—

"To (here enter name of licensee)

License No.....granted under the Indian Stamp Act, 1899,  
Bombay, Dated 192 .

You are hereby authorised to sell stamps of the following description (that is to say) (here insert description of stamps) at (here insert the No. of the house and name of street, &c., at which the stamps are to be sold) in the (here enter place) subject to the provisions of the Indian Stamp Act, 1899, and the rules from time to time in force thereunder.

(Signed) Collector

(or other officer empowered under Rule V.)

VIII. Every license shall be revocable at any time by Government or by the authority who granted it.

IX. (1) The following rates of discount shall be allowed to licensed vendors :—

Kind of stamp.	At places where Stamps are sold by ex-officio vendors.	At other places.
1	per cent. 2	per cent. 3
Adhesive stamps—	Rs. A. P.	Rs. A. P.
On stamps not exceeding in value 8 annas each in quantities of not less than Rs. 5 in amount ...	4 11 0	6 4 0
On stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each, in quantities of not less than Rs. 50 in amount ...	2 9 8	3 2 0
On stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each, in quantities of not less than Rs. 100 in amount ...	1 9 0	1 9 0
Stamps embossed or engraved on stamped paper (including such stamps bearing the word "Hundi") ...	4 11 0	6 4 0

(2) In the Presidency Town the rates of Rs. 4-11-0 and Rs. 2-9-8 per cent. specified in the first and second items in column 2 of the above table shall be reduced respectively to Rs. 3-2-0 and Rs. 1-9-0 per cent, and Government may, at their discretion, direct that the same reduction be made in the case of any town with a population of 50,000 inhabitants or over.

(3) Licensed vendors will not be allowed any discount on the purchase of stamps embossed or engraved on stamped paper exceeding in value Rs. 50 each.

(4) No discount shall be granted on the sale of stamps to the public.

X. Every licensed vendor shall keep in a conspicuous position outside his place of vend, a sign board bearing, in English and in the vernacular language of the district his name and the words, "Licensed Vendor of Stamps." He shall also have in his



place of vend, placed so that they can readily be seen and read by purchasers, copies of the Indian Stamp Act and of the rules thereunder in English and the said vernacular, with copies of all Notifications of the Governor-General in Council modifying the stamp duties.

XI. (1) Every ex-officio or licensed vendor shall with his own hand write on the back of every stamp embossed or engraved on stamped paper which he sells a serial number, the date of sale, the name and residence of the purchaser, the value of the stamp in full in words, and his own ordinary signature; at the same time he shall make corresponding entries in a register to be kept by him in the following form:—

Date.	Serial Number.	Description of Stamp.	Value of Stamp.	Name of Purchaser.	Residence of Purchaser.

(2) No vendor shall knowingly make a false endorsement on the stamp sold or a false entry in his register.

Note.—For the purposes of these rules the purchaser shall be deemed to be the person taking delivery of the stamps.

XII. Notwithstanding anything in rule XI, when an ex-officio stamp vendor, or a licensed stamp vendor specially authorized for the purpose of this rule, sells more than 50 stamps embossed or engraved on stamp paper of any one description and value on one and the same day to one and the same purchaser, the date of sale, the name and residence of the purchaser and the value of each such stamp may, instead of being written by the vendor, be printed or stamped on each such stamp. The Collector of the District, or in the Presidency town, or in the town of Karachi the Superintendent of Stamps, is empowered to authorize licensed stamp vendors for the purpose of this rule.

XIII. 1) Every stamp-vendor shall, whenever any person purchases a stamp embossed or engraved on stamped paper invite the purchaser to affix his thumb impression under the vendor's endorsement of sale on the stamp and also opposite the entry of the sale in his sale register (*vide* Instructions printed Appendix A below.)

(2) No new license to sell stamps embossed or engraved on stamped paper shall be granted, and no expired license shall, after a time to be specified in this behalf, be renewed, except on satisfactory proof that the applicant or licensee can take a clear thumb impression.

XIV. (1) Whenever application is made to a stamp-vendor for stamp embossed or engraved on stamped paper of a specified value and not exceeding the highest value which such stamp-vendor is authorized to sell, he shall, if he is able, furnish a single stamp of the required value.

(2) If the stamp-vendor is unable to furnish a single stamp embossed or engraved on stamped paper of the required value, he shall supply the purchaser with the smallest number of such stamps which he can furnish so as to make up the required value.

XV. Nothing in rule XIV shall be deemed to authorize a stamp-vendor, when the value of the stamp required exceeds the highest value which he is authorized to sell, to furnish a purchaser with two or more stamps in order to make up any such value.

XVI. Every licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale on demand by any person tendering the value thereof in

any currency which would be accepted on behalf of Government by the Collector of the district. A licensed vendor shall not demand or accept for any stamp any consideration exceeding the value of such stamp.

XVII. No vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

XVIII. Except at the Presidency Town, the accounts to be kept and rendered by licensed vendors shall be in accordance with the forms prescribed in Hope's Manual of Revenue Accounts or by Government.

XIX. At the Presidency Town each licensed vendor shall keep a book, showing in detail the supplies purchased from the Stamp Office and the daily sale. At the close of each month he shall submit to the Superintendent of Stamps a statement in the form of Appendix B.

XX. (1) All licensed vendors shall execute a security bond in the form given in Appendix C.

(2) The amount of the security shall be fixed in each case by the Collector or other authority who grants the license, but as stamps will ordinarily only be supplied to the licensee on payment of ready money, it need not be excessive.

XXI. No licensed vendor shall at any time offer any objection or resistance to the inspection of his register or the examination of his stock of stamps by any officer duly authorized by the Collector or by Government to make such inspection or examination.

XXII. (1) A licensed vendor—

(a) may deliver up any stamps in his possession either on application for leave to do so or on resigning his license, and

(b) shall deliver up all stamps embossed or engraved on stamped paper remaining in his possession on demand made at any time by the Collector or other officer duly authorised by Government in his behalf.

(2) Payment of the value of stamps paid for by a licensed vendor and delivered up shall be made subject to deductions as follows, viz.,—

(a) A deduction of one anna in the rupee of the full value of all stamps delivered up in the circumstances as follows, viz.,—

(i) on resignation by the vendor of his license;

(ii) on revocation of the license for any fault on the part of the licensed vendor;

(iii) on the death of the licensed vendor;

(iv) on application by the licensed vendor for leave to return any stamps in his possession.

(b) A deduction only of the discount, if any, allowed on purchase by the vendor on stamps delivered up in the circumstances following, viz.,

(i) on the expiration of the license;

(ii) on the recall of the stamps by Government;

(iii) on the revocation of the license for any cause other than a fault on the part of the licensee.

Provided that application for a refund of the value of stamps delivered up under this rule shall be made within two years of the date of the resignation or death of the licensed vendor or the revocation of the license.

XXIII. A licensed vendor shall be permitted to exchange any stamps which are in the opinion of the Collector or other officer duly authorised by Government in this behalf fit for use but for which there is no immediate demand, for other stamps of a like aggregate value.

XXIV. Every licensed vendor shall keep an adequate supply of one anna and half anna unified stamps for sale to the public.

#### APPENDIX A (See Rule XIII.)

##### *Instructions to stamp-vendors in connection with the taking of the thumb-impressions of purchasers of stamped papers.*

1. Every purchaser of stamp embossed or engraved on stamped paper should be invited to affix the rolled impression of the ball of his left thumb on the stamp itself below the vendor's endorsement of the sale on the back of the stamp and also opposite the sale entry in the vendor's sale register.

Proviso.—No impression should be taken in the following cases :—

(a) When the purchaser is literate and is personally known to the stamp-vendor ;

(b) When the purchaser is a European lady or gentleman or other person of position regarding whose identification there can be no doubt or room for suspicion.

NOTE.—*Pardanashin* ladies also should in all cases be invited to affix the impression of their thumb mark.

2. If a purchaser has lost his left thumb, or if his left thumb is so deformed or diseased that he cannot use it, the impression of the bulb of his right thumb or of any finger may be taken instead. In such cases a note should be made below the impression stating which finger of the left hand, or thumb or finger of the right hand has been used in making it, and explaining why the impression of the left thumb was not taken. The fingers of the hand should be described (commencing with that next the thumb) as the first or forefinger, the second or middle finger, the third or ring-finger, and the fourth or little-finger.

3. In the case of the purchasers at the Bombay Stamp Office, when the purchaser is recognized as a representative of, or is a peon bringing a written order form, a public body or known firm, it will be sufficient if the representative's or peon's thumb mark is taken in the register, and it will not be necessary to take it on the stamps. When the purchaser is not so known, his impression should be taken both, in the register and on the stamp. This rule will apply to Karachi and to such other head quarter stations in the Presidency as Government may from time to time direct.

4. *Ex-officio* stamp-vendors will be supplied by the Stationery Department on indent with one or two tin slabs, a roller and printing ink. A drop or two of printing ink should be put on the plate and by means of the roller and with the aid of a drop or two of kerosine oil it should be spread over the plate evenly. The layer of ink should not be so thick as not to allow the colour of the plate to show through it. The purchaser's left hand should be taken and the ball of the thumb after being wiped should be laid on the ink plate and rolled from side to side (not rubbed) and impressed gently but firmly with the operator's own hand until sufficiently inked, and the inked thumb should then be placed and lightly and carefully rolled on the paper on which the impression is to be taken in such a way that the pattern of the whole ball of the thumb from side to side is clearly impressed on it. The thumb should be inked afresh for each impression. It must be specially borne in mind that any reverse movement either at the time of applying or removing the thumb will cause a smudge and spoil the impression.

5. The affixing of a thumb impression should be carried out under the immediate personal supervision of the stamp-vendor, who should affix his initials against each impression.

6. The roller must, when not in use, be hung up by the handle, the barrel, not touching any thing and left in a cool place. In the morning following the day on which the roller has been used it should be cleaned by being first washed in water with washing soda dissolved in the latter and finally by being washed in water alone.

APPENDIX B (See Rule XIX).

Account of.....Licensed Stamp Vendor at.....No.....

Date.		Stamps embossed or engraved on Stamped Paper.				Total
		Ordinary.		Bearing the word "Hundi."		
		Number of Papers.	Amount	Number of Papers.	Amount.	
	Balance ...					
	Received as per Indent of ...					
	Ditto ditto					
	Ditto ditto					
	Total ...					
	Sold during the month					
	Balance ...					

APPENDIX C (See Rule XIX).

Know all men by these presents that we A. B. resident of.....  
and C. D. resident of.....and E. F. resident of.....are jointly and  
severally held and firmly-bound unto the Secretary of State for India in Council in  
the sum of Rupees.....of good and lawful money current in Bombay, to be  
paid to the said Secretary of State, or his certain Attorney, Agents, successors, or  
assigns, for which payment well and truly to be made we jointly and severally bind  
ourselves, and each of us, and our respective heirs, executors, administrators, and  
representatives, by these presents. Sealed with our respective seals. Dated this.....  
day of.....in the year of Christ One thousand Nine hundred and.....  
.....

Whereas according to the provisions of the rules in this behalf framed under  
section 74 of the Indian Stamp Act, 1899, the above bounden A. B. has been duly  
appointed to vend at.....in the.....certain stamps on the part of  
the Government, and whereas the above bounden C. D. and E. F. have agreed to join  
with the said A. B. in the above written bond or obligation subject to the conditions  
hereunder written, as the surety or sureties of the said A. B. for his strict observance,  
for and during all the time that he the said A. B. has been or shall continue to be  
such vendor of stamps, of the duties of his said office, and of all and every the rules

authorised by or referred to in the said Act to be observed by all vendors of stamps according to the true intent and meaning of the said Rules, and every of them ; and also for his the said A. B.'s strict observance, for and during all the time that he shall continue to be such vendor of stamps, of such future acts, with such penalty, and after such form as may be required by the Collector of.....Now the condition of the above written bond or obligation is such, that if the above bounden A. B. has, for and during all the time that he the said A. B. has been such vendor of stamps as aforesaid, well, truly, faithfully, and diligently done, executed and performed, and to and shall, for and during all the time that he the said A. B. shall continue vendor of stamps, well, truly, faithfully, and diligently do, execute, and perform all and every duties belonging to the said office of vendor of stamps, and has faithfully, justly, and exactly observed, performed, fulfilled, and kept, and shall faithfully, justly, and exactly observe, perform, fulfil, and keep all and every the rules mentioned or referred to in the said Act to be observed by all vendors of stamps according to the true intent and meaning of the said rules and every of them ; and also if the said A. B. shall well and truly observe, perform, fulfil, and keep such future acts, with such penalty and after such form as may be required by such Collector of.....according to the true intent and meaning of the said last mentioned Act ; and if the said A. B. his heirs, executors, or administrators shall indemnify and keep and save harmless the said Secretary of State for India, his successors, and assigns, of and from all loss and losses, damage and damages, which has or have happened or accrued to, or been sustained by him, the said Secretary of State for India, or which may or shall happen or accrue to, or be at any time or times sustained by him the said Secretary of State for India, his successors, or assigns, by, from, or through, or by the means of the neglect, default, insolvency, or misconduct of him the said A. B. his executors, or administrators or agents or his or their executors or administrators, not fully accounting for and paying to the said Secretary of State for India, his successors or assigns, what may be justly due and owing to him by the said A. B. as vendor of stamps as aforesaid, or through or by means of the neglect, misconduct, omission, or insolvency of the said A. B. as such vendor of stamps as aforesaid ; and also shall well and truly pay or cause to be paid into the hands of the Collector of.....for the time being, or to such other officer or person as the Government of Bombay shall from time to time direct or appoint, any penalties, forfeitures, dues or other sum or sums of money which now have been, or shall, or may be at any time hereafter incurred, or any penalties which may become payable by the said A. B., as such vendors of stamps, under or by virtue or by reason of the said Rules, or by any of them or by any such future Rule or Act, Rules or Acts, as shall hereafter be in that behalf passed in due form of law, relating to the said duties of stamp vendors when and so often as all or any such penalties, forfeitures dues and other sum or sums of money shall be so incurred or become payable by the said A. B. then this obligation to be void and of no effect, but otherwise to be and remain in full force and virtue.

Signed, Sealed, and

Delivered at.....

In our presence.....

.....  
 .....  
 .....

(Signed) A. B.  
 C. D.  
 E. F.

## APPENDIX III-D.

### RULES FOR THE SALE OF STAMPS.

#### BURMA.

*Government of Burma, Financial Department Notification No. 9, dated the 26th February, 1909.*

In exercise of the power conferred by section 74 of the Indian Stamp Act, 1899 (II of 1899), . . . . . the Lieutenant-Governor makes the following Rules for regulating the sale of stamps and stamped papers, the persons by whom alone such sale is to be conducted and the duties and remuneration of such persons.

1. For the purposes of these rules stamps are divided into four classes namely.—

(1) Impressed stamps other than impressed labels and hundi stamps.

(2) Adhesive labels of the value of half an anna or one anna as referred to in Rule 14 of the Rules published in the Government of India, Finance Department Notification No. 3692, dated the 29th June 1906.

(3) All other adhesive stamps authorized by section 11 of the Indian Stamp Act, 1899.

(4) Hundi stamps.

2. Stamps shall not be sold except (a) by *ex-officio* vendors; (b) by persons licensed under these rules, hereinafter called "licensed vendor," and (c) by postal officers under Rule 15, hereinafter called "postal vendors", provided that nothing in this rule shall restrict the sale of half-anna stamps and one-anna stamps.

3. *Ex-officio* vendors are appointed under, and their duties are defined in, executive instructions Rules 24 to 27 also apply to them.

4. Licenses for the vend of stamps shall be granted, without payment of any fee, by the Deputy Commissioner to such persons and for such places in district as he may approve.

5. Every circle *thugyi* or village headman shall be bound, if so required by the Deputy Commissioner, to take out a license as vendor of stamps, or to provide a substitute approved by the Deputy Commissioner. The Head Clerk of every Sub-divisional or Township Officer, except at the headquarters of districts, shall, if so required by the Deputy Commissioner, be bound to take out a license. The rules as to the grant and revocation of licenses and the conditions of the issue of stamps apply to vendors appointed under this rule.

6. Any licenses granted under Rule 4 or Rule 5 may be revoked by the Deputy Commissioner or by any Revenue Officer of a grade superior to the Deputy Commissioner; but, subject to this condition every license shall be in force until it is surrendered by the holder or until the holder's death.

7. Stamps held by a licensed vendor shall be returned to the Deputy Commissioner on the revocation of the license, or on the vendor's death or on the vendor's resignation of his license. The Deputy Commissioner may recall any stamps held by a vendor and may permit a vendor to restore any stamps for sufficient cause.

8. (1) When stamps are returned into the Deputy Commissioner's store on—

- (i) resignation of the vendor's license ;
- (ii) revocation of license for any fault of the licensee ;
- (iii) death of the licensed vendor ;
- (iv) application of the licensed vendor for leave to restore any stamps ;

the stamps shall be taken back at their full value less a deduction of one anna in the rupee.

(2) When stamps are returned into the Deputy Commissioner's store on—

- (v) expiration of license ;
- (vi) recall of stamps by Government ;

(vii) revocation of license for any other cause than the fault of the licensee ; they shall be taken back at their full value less only any discount allowed on their sale to the licensed vendor.

9. In every license shall be specified the place or places at which the licensee-holder is permitted to vend stamps and no vendor shall sell stamps at any places or places other than those mentioned in his license.

10. A register of licensee granted shall be kept in the office of the Deputy Commissioner and copies of every license issued shall be filed in the offices of the Sub-divisional Officer and the Township Officer in whose jurisdictions the holder resides.

11. Every circle *thugyi* or village headman who resides in a place where there is a treasury or sub-treasury if required to take out a license under Rule 5 has the option of paying ready-money for stamps at the time of issue, or of furnishing security in the manner stated in Rule 12 for the value of the stamps issued to him. The option shall be exercised at the time of the grant of the license. To circle *thugyi* or village headmen who elect to pay at the time of issue, licenses shall be issued in Form A and to those who elect to furnish security in Form B. Any circle *thugyi* or village headman who has received a license in one of these forms may exchange it for a license in the other form upon fulfilment of the necessary conditions.

12. In the case of circle *thugyi* or village headmen who do not elect to pay for stamps at the time of issue, the amount of security shall be added to the amount required to be entered in the bond executed for the due collection of the land revenue. If there is no such bond, a separate bond for the stamps shall be taken in the form prescribed.

13. To licensed vendors other than circle *thugyi* and village headmen, licenses shall be issued by the Deputy Commissioner in Form A if they elect to pay cash, or in Form B if they are allowed by the Deputy Commissioner to furnish security and if they execute bonds in the form prescribed.

14. (1) Every licensed vendor who purchases stamps of the kinds authorized by his license from an *ex-officio* vendor by payment of ready-money or on deposit of security shall receive the same at the following rates of discount to be paid in cash :—

	Vendors residing at places where stamps are sold by Government.	Vendors residing at other places.
	Per cent. RS. A. P.	Per cent. RS. A. P.
<i>Adhesive.</i>		
(i) * Stamps, other than half-anna and one-anna stamps, not exceeding in value eight annas each.	4 11 0 or 9 pies per rupee.	6 4 0 or 1 anna per rupee.
(ii) Exceeding 8 annas but not exceeding Rs. 5 each.	2 9 8 or 5 pies per rupee.	3 2 0 or 6 pies per rupee.
(iii) Exceeding Rs. 5 but not exceeding Rs. 50 each.	1 9 0 or 3 pies per rupee	1 9 0 or 3 pies per rupee.
<i>Hundi stamps.</i>		
<i>Impressed stamp papers.</i>	4 11 0 or 9 pies per rupee.	6 4 0 or 1 anna per rupee.

(2) No discount shall be allowed under this rule on the sale of any single stamps exceeding Rs. 50 in value, or when the total value of the stamps of each class purchased at one time is less than Rs. 3 in the case of *thuggis* and village headmen, or less than Rs. 10 in other cases.

15. (1) Officers in charge of post offices and other postal officers who are required to keep a supply of ordinary postage stamps for sale to the public are required to keep also a supply of other revenue or non-judicial stamps mentioned in Rule 1 not exceeding Rs. 5 in value for sale to the public.

(2) Such officers shall obtain supplies of, sell and account for, revenue stamps not exceeding Rs. 5 in value in the same manner and subject to the same conditions (except as to the rate of discount) as ordinary postage stamps.

(3) The rate of discount for stamps (other than ordinary postage stamps) purchased by such officers shall be one half-anna in the rupee on Revenue stamps not exceeding Rs. 5 each in value.

16. Licensed vendors may draw their supplies from the *ex-officio* vendor at a treasury or sub-treasury.

17. Every licensed vendor who is a person bound to take out a license under Rule 5, or who is a substitute provided by any such person, shall keep such stock of stamps as he may be required to keep by order of the Deputy Commissioner of the district.

18. \* At the time of the issue of his license every licensed vendor shall declare the treasury or sub-treasury from the *ex-officio* vendor of which he desires to draw his supplies. The name of the said treasury or sub-treasury shall be entered in the license and may be changed at any time by the Deputy Commissioner at the wish of

\* Government of India, Finance Department, Resolution No. 1792-Ex., dated the 5th March, 1907.



the vendor, No licensed vendor shall obtain stamps from any treasury or sub-treasury other than that mentioned in his license.

19. Every licensed vendor who furnishes security shall keep an account of the receipts and sales of stamps in Form C, and shall allow any Revenue Officer of, or superior to, the grade of Township Officer and any other officer authorized in writing by the Deputy Commissioner to inspect his accounts and stock at any time.

20. No licensed vendor shall be required to keep any register or to make any endorsement or enfacement on any stamp, or to keep or render any account, other than such as may be expressly prescribed by these rules.

21. When application is made to a licensed vendor for a stamp of a value exceeding Rs. 50, he shall refer the applicant to the *ex-officio* vendor from whom he obtains his supplies under Rule 16.

22. Every licensed vendor shall allow the Deputy Commissioner of the district or other officer duly authorized by him or by the Local Government or any Revenue Officer of, or superior to, the grade of Township Officer at any time to inspect the register which he is required to maintain by Rule 25, and to examine the store of stamps in his possession.

23. Every licensed vendor or postal vendor shall without delay deliver any stamp which he has in his possession for sale on demand by any person tendering the value thereof in any currency which would be accepted on behalf of Government at a Government Treasury, and he shall not demand or accept therefor any consideration exceeding the nominal value of the stamp.

24. Every licensed vendor shall exhibit conspicuously at his place of vend a signboard bearing his name and the words "Licensed vendor of stamps" and every vendor shall be supplied, free of charge, by the Deputy Commissioner, with copies, in English and Burmese, of the Indian Stamp Act, 1899, and of all such notifications, rules, and instructions, published under, or relating to, the said Act, as concern him, and shall allow any person to inspect the same. Such copies shall be renewed at the expense of the vendor, and every vendor shall be required to keep serviceable copies of the said Act, notifications, rules, and instructions abovementioned.

25. Every vendor or is agent, if the vendor is permitted by the Deputy Commissioner to appoint an agent, shall endorse on each stamp of class (1) which he sells the following particulars, which shall be true and accurate to the best of his knowledge:—

- (a) A serial number, their being a separate series for each calendar year.
- (b) Date of sale
- (c) Name, father's name, and residence of purchaser.
- (d) Value of stamp in full in words.
- (e) His ordinary signature.

He shall forthwith make a corresponding true entry of the abovenoted particulars in a register to be kept in form D, and shall also enter the particulars required in the last column thereof: provided that, when an *ex-officio* vendor sells stamps of class (1) to a licensed vendor, no such endorsement or entry shall be made.

26. When a person applies to an *ex-officio* or licensed vendor for an impressed sheet the vendor shall, subject to the provisions of Rule 21, supply the applicant with a single impressed sheet of the required value if he has a single sheet of such value in stock; if he has no single sheet of the required value in stock, he shall, subject also to the provisions of Rule 21, supply the applicant with the smallest number of sheets which he can furnish so as to make up the required value.

27. No vendor shall sell any stamp the use of which has been ordered by competent authority to be discontinued.

## APPENDIX III-E

### RULES FOR THE SALE OF STAMPS.

#### THE CENTRAL PROVINCES AND BERAR.

The Central Provinces Government Notification No. 85 dated the 3rd March for the Central Provinces and No. 87 dated the 3rd March for Berar, of 12th March 1910.

*Central Provinces Government Gazette, Part I, page 140.*

Commencement.

1. These rules shall come into force at once.

2. The sale of any description of Stamps (other than unified anna and half-anna stamps) by any person who is not duly authorised in the manner hereinafter provided, is prohibited.

Sale of Stamps.

NOTE.—This prohibition does not apply to the case of a legal practitioner or a banker, who buys a stock of stamps for use in his own business, and affixes them, when occasion requires, to the documents he has to draw up in the course of that business, the cost of the stamps being recovered from his client or customer with the rest of his charges.

Classes of vendors.

3. There shall be two classes of vendors, namely :—

(a) *Ex-officio* vendors.

(b) Licensed vendors.

(a) The following persons shall be deemed to be *ex-officio* vendors:—

(1) The Treasurer or Treasurer's Agent at a Local Depot.

(2) The Tahsildar or Potdar at a Branch Depot.

(3) Inspectors of Stamps Licenses and any other Government official who may be appointed by the Collector in this behalf.

(b) The Collector may grant a license for vend of stamps to any of the following persons :—

(1) Sub-Postmasters or Branch Postmasters.

(2) Inspectors of Stamp Licenses.

(3) Village Schoolmasters.

(4) Any other person or class of persons deemed by the Collector to be fit and proper persons for the sale of such stamps.

Provided that in the case of the appointment of Sub-Postmasters, Branch Postmasters and Schoolmasters the previous consent of the

Sanction to appointments required in certain cases.

Postmaster-General or the Director of Public Instruction, as the case may be, shall be obtained. Such consent may be either general or special.

4. The license shall be in Form A annexed to these rules. In the case of persons specified in sub-head (4) of rule 3 (b) it shall be granted to the person by name. In other cases the designation of the official only shall be entered therein.

Revocation of license. 5. A license may be revoked at any time by the Local Government or by the authority who granted it.

Duties of *ex-officio* vendors. 6. (1) The *ex-officio* vendors other than Inspectors of Stamp Licences shall supply stamps to the public and to licensed vendors, and shall allow discount to the latter at the rates and under the conditions hereinafter prescribed.

(2) The *ex-officio* vendors other than Inspectors of Stamp Licences shall sell direct to the public only such stamps as are above the denomination of Rs. 20 (twenty).

(3) Inspectors of Stamp Licences appointed as *ex-officio* stamp vendors shall not sell stamps to the public direct ; but shall supply them to such official and non-official vendors as reside at a distance from the district treasury and are in need of them, allowing discount at the rate and under the conditions referred to above.

Duties of licensed vendors. 7. (1) Licensed vendors shall sell to the public such stamps only and at such places only as are indicated in their licenses. They shall be restricted to the sale of the stamps of values not exceeding Rs. 20 each.

(2) Inspectors of Stamp Licences who are granted licenses shall sell stamps to the public only when on tour and at such places only where there are no licensed vendors.

Method of supply of stamps to licensed vendors. 8. (1) Licensed vendors shall obtain stamps from *ex-officio* vendors at local and branch depots, either on payment of ready money (less the commission hereinafter prescribed) or without pre-payment as an advance in accordance with the following rule. A licensed vendor shall obtain stamps only at the depots situated in the district for which his license is granted.

(2) The Deputy Commissioner and Treasury Officer must see that licensed vendors do not unnecessarily harass the Treasury staff by constant indents.

Extent of supply without pre-payment. 9. (1) Licensed vendors noted below may be granted by the Collector an advance of non-judicial stamps not exceeding Rs. 20 each in value without pre-payment to the extent indicated against each :

	Maximum value.
	Rs.
(a) To Sub-Postmasters or Branch Postmasters	75
(b) To Village Schoolmasters who are not Sub-Postmasters or Branch Postmasters and to other officials drawing a salary not less than Rs. 20	20
(c) To Non-official vendors	50
(d) To Inspectors of Stamp Licences	100
as <i>ex-officio</i> vendors	Rs. 75
as licensed vendors	25

(2) The licensed vendors shall, on receiving such advance, give a receipt for the money value of the stamps advanced, which receipts shall be renewed half-yearly in the manner provided for permanent advances by the Accounts Department. When they cease to be licensed, they shall return such stamps as are in their possession and shall refund in cash the difference between the stamps so returned and the value entered in the receipt, and the receipt shall then be returned.

(3) All stamps subsequently supplied to a licensed vendor must be paid for by him in cash.

NOTE.—The cost of remitting cash to the treasury for the purchase of stamps, and of postage and insurance of stamp parcels issued to the licensed vendors in return for cash, is borne by the Stamp Department in the case of (a) Sub-Postmasters and Branch Postmasters and (b) Village Schoolmasters and other officials.

10. Security for an advance should be taken from non-official vendors, Sub-Postmasters, Branch Postmasters, Inspectors of Stamp Licenses, and Village Schoolmasters should not be required to give security.

The calling in of advance.

11. Advances may at any time be called in by the Collector.

12. (1) Every licensed vendor who purchases from Government by payment of ready money will be allowed discount on the supply of stamps purchased by him, provided that no discount shall be payable when the total value of such purchases falls below Rs. 5.

(a) Inspectors of Stamp Licenses who are granted licenses shall receive the same discount as is paid to vendors resident at places where there are no ex-officio vendors.

(2) The rates of discount per cent. as follows :—

RATES OF DISCOUNT PER CENT.			
In the Towns of Jubbulpore and Nagpur.		At other places when stamps are sold by Government.	At all other places.
Rs. a. p.		Rs. a. p.	Rs. a. p.
<b>NON-JUDICIAL STAMPS</b>			
Hundi stamps	...	3 2 0	4 11 0
Impressed stamp papers	...		
			6 4 0

NOTE.—*Ex-officio* vendors shall receive no discount on sales effected by them.

Stamps of the denomination required to be supplied if possible.

13. Upon application being made for an impressed sheet of a particular value, a sheet of that value shall, if in stock, be furnished to the applicant.

Procedure when stamps of the denomination required are not in stock.

14. Should no sheet of the value required be in stock, the vendor shall supply the applicant with the smallest number of impressed sheets which he can furnish so as to make up the required value.

15. Every stamp vendor shall endorse on the back of each impressed sheet (other than a hundi) sold by him to the public the serial number, the date of the sale, the

value of the stamp in full in words, and the name, father's name, caste, the residence of the actual purchaser, and if purchased on behalf of a third person, the name and residence of that person, and shall affix his signature to the endorsement. At the same time he shall make corresponding entries in a register to be kept by him in Form B hereinafter prescribed.

16. Every vendor shall keep a register (see Form B) of impressed sheets sold to the public.

17. If the purchaser is literate he should be invited to sign the endorsement on the stamp and the entry in the register; and if illiterate the imprint of his left thumb impression should be taken below the endorsement on the stamp as well as against the entry in the register.

18. Each page of the register shall be numbered and sealed with the seal of the Deputy Commissioner's office. The name of the vendor, the date on which the register is brought into use, and the number of pages it contains shall be entered on the inside of the cover. On completion, it shall be deposited in the Collector's office. The use by a licensed vendor of a register not so distinguished is forbidden.

19. Every licensed vendor shall also maintain a register of his daily transaction in Form C.

False endorsement or encasement prohibited.

20. No vendor shall knowingly make a false endorsement or encasement on a stamp sold or false entry in his register of sales.

21. No vendor shall demand or accept for any stamp more than the actual value denoted thereon, and every vendor shall without delay deliver any stamp which he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Collector.

Overcharge or delay prohibited.

22. No vendor shall sell any stamp the use of which has been ordered by competent authority to be discontinued.

23. Every vendor shall allow any Inspector of Stamp Licenses or any Revenue Officer not below the rank of Naib-Tahsildar, or any official duly authorized in that behalf by the Collector or by the Local Government, at any time to inspect his register of sales and to examine his license and the store of stamps in his possession.

Discontinued stamps not to be sold.

24. Every licensed vendor shall at any time on the demand of the Collector or on revocation or on relinquishment of his license deliver up all stamps, or any class of stamps, remaining in his possession, together with the registers, copy of the Stamp Act and rules which he was supplied with free of cost.

25. Every licensed vendor shall at all times keep affixed in a conspicuous position outside his place of vend a placard bearing his name and the words "Licensed Vendor of Stamps" in the Vernacular, and also, should the Collector so require, in English.

26. He shall keep at his place of vend his license and copies in English and Vernacular of the Act of the Legislature referring to the stamps sold by him and its Schedules, together with these rules in English and Vernacular which shall be supplied to him free of charge. He shall permit any intending purchaser to inspect the Act, Schedules and Rules.

Signboards, etc.

27. A licensed vendor may be allowed to exchange unsold stamps which are fit for use for other stamps of the same value.

Unsold stamps may be exchanged.

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28. Every licensed vendor shall keep for sale to the public a supply of half-anna and one anna unified stamps sufficient for the probable demand of at least one week.

29. A register of licenses issued shall be kept up in the Collector's office, and shall be revised annually in April when all lapsed licenses shall be struck out and new licenses entered. It shall contain the following headings :—

- (a) Date of license.
- (b) Name of licensee.
- (c) Place of vend.
- (d) Amount of security, if any, taken.
- (e) Description of stamps to be sold under the license.
- (f) Remarks (this column will show any changes that may take place during the year).

## **FORM A.**

*Form of license to sell stamps under the Indian Stamp Act, II of 1899.*  
(Referred to in Rule 4).

License is hereby granted to \_\_\_\_\_, son of \_\_\_\_\_, caste \_\_\_\_\_, resident of \_\_\_\_\_, in the district of \_\_\_\_\_ to sell stamps at \_\_\_\_\_, of the description mentioned below for a period of \_\_\_\_\_ commencing from \_\_\_\_\_, subject to the rules made on that behalf under the Indian Stamp Act, II of 1899. The infringement of any of these rules will render the holder liable to the penalty prescribed in S. 69 of Act II of 1899, *vis.*, imprisonment for a term which may extend to six months, or fine which may extend to Rs. 500, or with both.

*(Here enter the description of stamps which may be sold).*

**DISTRICT**

*The*

*191 .*

*Collector.*

## **FORM B.**

*Licensed vendor's register of sales of Stamps other than Hundis and Adhesives.*  
(Referred to in Rule 16).

1	2	3	4	5
Serial No. (yearly) of sale.	Date of sale.	Name (with the father's name and caste) of the person who pays for and takes the stamps.	Value of the stamps purchased (in words).	Signature of the vendor.



## APPENDIX III-F.

### RULES FOR THE SALE OF STAMPS.

#### MADRAS.

Power to frame rules under S. 74 was delegated to the Board of Revenue by Madras Government Notification 553 of the 6th October, 1914. But the following rules framed under the Act of 1879—Fort St. George Gazette Notification No. 84 of 13th March, 1888, Part I, page 200—and subsequently amended by the Board of Revenue are still in force.

1. The office of the Superintendent of Stamps shall be a local depot for the sale of stamps exceeding Rs 50 in value.

2. When the stock of stamps in any local depot falls below the prescribed amount, it shall be the duty of the Superintendent of Stamps to bring the same to the notice of the Board of Revenue.

3. Such of the packets received in a local depot from the Superintendent of Stamps as bear English seals and are marked as containing a certain number of stamps may be left with seals unbroken to be counted as they are required on being given out from double lock.

4. The stock of stamps to be left with treasurer shall be limited to a week's supply, except when the value of stamps, stock notes and cash left with him is below the security taken, when the value of stamps in his possession may be increased by the difference.

5. The register referred to in the Government of India rule 18 shall be in the English language.

6. The supply to be kept in a branch depot shall be equal to the probable demand for one month. As soon as the number of stamps in the branch depot falls below the number issued in the preceding six weeks, the officer in charge of the branch depot shall submit an indent for a supply equal to the probable consumption of one month, so that he may always have a month's reserve besides the number required for sale during the month. The Board of Revenue may, however, direct that the supply to be kept in any particular branch depot or depots shall be equal to the probable demand for three months. In such cases, the officer in charge of the branch depot shall, as soon as the number of stamps in the depot falls below the number issued during the preceding four months, submit an indent for a supply equal to the probable consumption of three months, so that he may always have three months' stock in reserve, besides the number required for sale during the next three months.

7. In every branch depot stamps sufficient for a week's supply should be left in charge of the taluk sarishtadar, who is the *ex-officio* vendor, and all the remaining stamps should be kept under joint lock and key of the tahsildar, and taluk sarishtadar, both the keys being under charge of the latter when the former is absent from the headquarters.



8. Such officers of Government as the Board of Revenue or Government may appoint shall be *ex-officio* vendors. Such persons as may be licensed by the Collector or other officer empowered by the Board of Revenue or Government to grant licenses shall be licensed vendors.

9. *Ex-officio* vendors shall sell such stamps as they may be directed by the Board of Revenue or Government to sell. Licensed vendors shall sell such stamps as are indicated in their licenses.

10. Every license shall be revocable at any time by the authority who granted it. Every license shall specify the name of the licensee, the description of stamps that are to be sold under the license, the place of vend, and such other matters as may be necessary, and shall be signed by the authority granting it.

11. Subject to rule 13, every licensed vendor who purchases from Government by payment of ready money, stamps of the individual value of Rs. 5 and under, and to the aggregate amount of Rs. 5 and upwards, shall receive the same at a rate of discount not exceeding  $6\frac{1}{2}$  per cent.

12. Subject to rule 13, every licensed vendor who purchases from Government, by payment of ready money, stamps of the individual value of above of Rs. 5 and not exceeding Rs. 50, shall receive the same at such discount not exceeding the following rates as may be prescribed by the Board of Revenue or Government :—

	Per cent.
Vendors licensed at places where stamps are sold by Government ...	3
Vendors licensed at other places ... ..	5

13. No discount shall be given on account of the purchase of any stamp exceeding Rs. 50 in value, nor on any stamps applied on material furnished by the purchaser himself, nor if there be purchased at one time less than the quantity prescribed by these rules in respect of any class or value of stamps.

14. The Board of Revenue or Government may authorize licensed vendors to be supplied with stamps without requiring payment in ready money. Such licensed vendors may receive commission on these stamps sold by them at a rate to be prescribed by the Board of Revenue or Government not exceeding 2 per cent. In this case sufficient security shall be taken from the licensed vendors for the payment of any sum due by them to Government.

15. Every licensed vendor shall at all times have fixed up in a conspicuous station outside the place of vend a signboard bearing the name of the vendor, with the words "Licensed vendor of stamps" in English and the Vernacular language of the district. He shall also have in the place of vend the Acts of the Legislature and their schedules referring to the stamps sold by him together with these rules in English and the said Vernacular, placed, so that they can readily be seen and read by purchasers.

16. Every *ex-officio* vendor selling stamps to any person not a licensed vendor, and every licensed vendor, shall write on the back of every stamp paper which he sells a serial number as determined by orders of the Government, the date of sale, the name and residence of the purchaser, and if the stamp is purchased for the use of any person other than the person who tenders the money for it, the name and residence of that other person also, and the value of the stamp in full in words, and his own ordinary signature; at the same time he shall make corresponding entries in a register to be kept by him in such form as the Government may prescribe. Any such vendor who shall knowingly make a false endorsement on the stamp sold, or a false entry in his register, renders himself liable to prosecution under the Indian Penal Code.

17. Every *ex-officio* or licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale, on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Collector of the district.

18. No *ex-officio* or licensed vendor shall sell any stamps, the use of which has been ordered by competent authority to be discontinued.

19. Every *ex-officio* or licensed vendor shall keep and render such accounts as may be prescribed by the Board of Revenue or Government, and shall allow the Collector of the district or any officer duly authorized by such Collector, by the Board of Revenue or by the Government, at any time to inspect such accounts, and the register which he is required to keep under rule 16, and to examine the store of stamps in his possession.

20. Every *ex-officio* or licensed vendor shall, at any time, on the demand of the Collector or other officer duly authorized by the Board of Revenue or Government, deliver up all stamps remaining in his possession, and if such stamps have been paid for, shall receive back the value thereof, less any discount which may have been allowed.

21. When application for an impressed sheet of a particular value is made to a Treasury officer or to a stamp vendor, the Treasury officer or stamp vendor shall, if possible, issue a single sheet of that particular value. If a single sheet is not available he shall issue the fewest possible sheets that will aggregate the required value.

22. When, however, the value of the stamp paper applied for is higher than the highest value of stamp which a vendor is authorized to sell, such vendor shall not attempt to supply such stamp by the sale of a number of the stamped sheets he is authorized to sell.

23. The stock of stamps in the central depot shall be verified annually by an officer of the rank of Assistant or Deputy Collector, unconnected with the stamp department and deputed by the Government for the purpose. The verification shall take place in the manner and form prescribed by the Comptroller-General, to whom the result will be reported.

## APPENDIX III-G.

### RULES FOR THE SALE OF STAMPS.

#### PUNJAB.

Punjab Government Notification No. 1500 of 5th June 1900.

*Punjab Gazette, Part I, page 415.*

#### RULES—INTERPRETATION.

I.—In these rules unless a different intention appear from the subject or context :—

- (a) the word "STAMP" means a stamp intended to be used under the Indian Stamp Act, 1899, and includes the plural, and applies to adhesive stamps and stamps impressed on sheets of paper. The word does not include any stamp intended to be used under the Court Fees Act, 1870, and is limited to non-judicial stamps ;
- (b) the expression "IMPRESSED STAMP" means a stamp as defined in Section 2 (18) of the Stamp Act, 1899, and the expression "ADHESIVE LABEL" has the meaning attached to it in rule 14 of Government of India Notification No. 786 S. R., dated 17th February 1899 ;
- (c) the expression "LOCAL DEPOT" includes every treasury at the head-quarters of any district in the Punjab and, any place, where there is no treasury for the custody and sale of stamps, which the Lieutenant-Governor may declare to be a "Local Depot" ;
- (d) the expression "BRANCH DEPOT" includes every subordinate treasury at the head-quarters of a TAHSIL or other sub-division of a district ;
- (e) the expression "EX-OFFICIO VENDOR" means the treasurer for the time being of every treasury at the head-quarters of a district in the Punjab or his agent, the sub-treasurer of every sub-treasury at the head-quarters of a TAHSIL or sub-division of a district, and also includes every person appointed to discharge the function of a treasurer at any local depot established at a place where there is no treasury ;
- (f) the expression "LICENSED VENDOR" means every person who for the time being holds a license, granted under these rules, to sell stamps, but does not include an "EX-OFFICIO VENDOR," as such, though an EX-OFFICIO VENDOR may, if duly licensed, be also a LICENSED VENDOR ;
- (g) the term "SPECIAL LICENSE" means a license to sell stamps granted under these rules to a Government servant to sell stamps on special terms as to remuneration ; and a specially licensed vendor is a person holding such license ;
- (h) the term "VENDOR" includes both EX-OFFICIO and LICENSED VENDORS and SPECIALLY LICENSED VENDORS.

II.—These rules are subject to the rules made by the Governor-General in Council and published in Notification No. 786 S. R., dated the 17th February 1899.

## SUPPLY OF STAMPS.

III.—Stamps will be supplied to local depots and branch depots under the rules made by the Governor-General in Council and published with Government of India Resolution No. 1439 S. R., dated the 27th March 1895, as amended by Resolution No. 2655 S. R., dated the 13th June 1899, republished by Punjab Government Notification No. 1896, dated the 20th July 1899.

IV.—(i) (With reference to rule 7 of the rules quoted in rule III of these rules), the supply of stamps of each denomination to be maintained at the Lahore local depot shall be equal to the probable consumption of not less than twelve nor more than twenty-four months. The supply of stamps of each denomination to be maintained at the local depots at Delhi, Mooltan and Rawalpindi, respectively, shall be based on the probable consumption of not less than nine nor more than eighteen months. In the case of every other local depot the supply to be maintained shall be based on the probable consumption of not less than three nor more than twelve months.

(ii) (With reference to rule 8 of the said rules), as soon as the number of stamps of any denomination in the local depot approaches the minimum as set forth in the preceding rule, an indent for a quantity which, with the balance in hand, shall make up the maximum as set forth in the preceding rule, shall be prepared and forwarded to the Superintendent of Stamps, Calcutta, through the office of the Superintendent of Stamps, Punjab.

(iii) (With reference to rule 30 of the rules quoted in rule III of these rules), the supply of stamps of each denomination to be kept in a branch depot shall be equal to the probable consumption of not less than one or more than two months.

(iv) (With reference to rule II of the rules quoted in rule III of these rules), as soon as possible after the arrival at a local depot of a supply of stamps, the officer in charge of such depot shall have every box or package opened in his presence and the contents of each such box or package shall forthwith be counted by himself, or, in his presence, by some person acting under his control. The officer in charge of the local depot shall compare the number, description and value of the stamps received, with the entries in the invoice accompanying the remittance. The inside wrappers of packets of stamps which bear the initials of the officers through whose hands the packets passed before issue from England should invariably be preserved until the whole contents of the packets have been examined and found correct. If the stamps received be found to correspond with those shown in such invoice, he shall date and sign such invoice, and return it to the officer from whom the supply of stamps has been received. If any discrepancy be found, he shall forthwith inform such officer, and also the Superintendent of Stamps, Punjab, of the nature and extent of the discrepancy.

If the supply of stamps received is large, the officer in charge of the depot may, instead of opening and counting the contents of every sealed packet marked as containing a certain number of stamps, open and count the contents of ten per cent. of such sealed packages. The remainder, if the contents of those packages which have been opened are found correct, may be deposited with seals unbroken under double-locks and their contents may be verified when they require to be opened for the purpose of issue of stamps from the double-locks.

(v) Stamps supplied to a local depot and found, upon receipt, to be unfit for issue, and stamps which, at any time after receipt, in any manner become unfit for issue, should be returned to the Superintendent of Stamps, Calcutta, as soon as their unfitness for issue is discovered, and a report made of the circumstances under which the stamps are believed to have been rendered unfit for issue. At the same time a copy of such report should be forwarded to the Superintendent of Stamps, Punjab.

(vi) Clauses (iv) and (v) of this rule shall apply, *mutatis mutandis*, to branch depots. Indents for the supply of stamps to branch depots shall be prepared and sent to local depots not less often than once every month.

(vii) (With reference to rule 16 of the rules quoted in rule III of these rules), the accounts to be kept by *ex-officio* vendors shall be kept either entirely in the English language or in the Urdu language, English figures being invariably used to express numerals.

#### LICENSES FOR VEND OF STAMPS.

V.—(i) Subject to the provisions of these rules, the Collector, or other officer empowered by the Local Government in this behalf, may grant to any person a license for the sale of stamps of any value or description named in the license, at any place, or in any area, within the limits of his district, provided that no person employed in any department of the public service shall be granted a license under these rules without the previous consent of the head of such Department.

(ii) The Collector may in his discretion grant a license to sell stamps to any *ex-officio* vendor, and the *ex-officio* vendor so licensed, shall be also a licensed vendor within the meaning of these rules, and shall be subject to all the provisions thereof as regards the sale of stamps and his duties and remunerations as such licensed vendor.

(iii) The Collector may in his discretion and subject to the proviso in clause (i) of this rule grant to any sub-postmaster or other Government servant a special license to sell, at a place other than the head-quarters of a district or TAHSIL—

(a) impressed stamps other than impressed labels and Hundi stamps;

(b) adhesive stamps of the value of one anna each, commonly called "receipt stamps";

subject to the following regulations :—

(1) Any Government servant specially licensed under this rule may, at the time of being licensed, receive without payment of ready money, an advance of stamps of the class that he is licensed under this rule to sell, of an aggregate value not exceeding fifty rupees; the specially licensed vendor receiving such advance shall give a receipt for the money value thereof, which receipt shall be renewed from year to year in the manner prescribed for permanent advances on account of contingent expenditure; when the Government servant ceases to be licensed or desires to discontinue the advance, he shall refund the value entered in the receipt, either in money or in stamps of the class which he is licensed to sell, and the receipt shall then be returned to him.

(2) All postage charges for the remittance of stamps supplied to specially licensed vendors or for the remittance by such vendors of the value of the stamps supplied to them shall be borne by the Stamp Department.

VI.—(i) Every license granted under these rules shall specify the person licensed, the kind and the value of the stamps he is licensed to sell, and the place at, or area within which, he is licensed to sell; and shall further contain the particulars and conditions, and be in the form attached to these rules and marked Form A, or in such other form as the Financial Commissioner may from time to time prescribe.

(ii) Every special license shall contain the same particulars and be in the same form as are stated in clause (i) of this rule but the Collector may, if he sees fit, grant the license in the name of a particular office at a particular place instead of in the name of a particular person.

VII.—The Collector shall cause a register of licenses and special licenses granted under these rules to be maintained for the district. The register shall contain the following particulars :—

- (a) Date of granting the license.
- (b) Serial number for the year of the license.
- (c) Name and description and residence of person licensed; or in the case a license granted to a public servant, the official designation of the office in virtue of which the license may be used.
- (d) Place or area for which the license is granted.
- (e) Description of stamps (kind and value) covered by the license.
- (f) Period for which the license is granted.
- (g) Amount of security (if any) taken.
- (h) Acknowledgment of licensee.
- (i) Remarks relating to revocation, renewal, surrender, expiry, &c., of license.
- (j) Date of destruction of license.

VIII.—(i) Any license or special license granted under these rules may be revoked at any time by the Collector of the district in which it was granted, or by any revenue authority to whom such Collector is administratively subordinate.

(ii) When any license or special license is revoked, or, when the term for which any license is granted expires, it shall be the duty of the person to whom it was granted or his representative to surrender it to the Collector. The Collector will receive and (by enforcement) cancel every such license. Cancelled license may be destroyed when no longer likely to be required for any purpose.

#### SALE OF STAMPS BY VENDORS.

##### DUTIES OF THE VENDORS.

IX.—No person other than a vendor as defined in those rules shall sell stamps, other than one anna adhesive stamps, unless specially authorised thereto by Notification of the Local Government.

X.—(i) Every vendor shall sell stamps in accordance with these rules for the value expressed upon them, and for no more.

(ii) Every vendor shall accept payment for any stamp sold by him in any currency which would be accepted on behalf of Government at a district treasury.

(iii) No vendor shall sell stamps of any kind the use of which has been discontinued or prohibited by competent authority but any stamp of any kind the use of which may have been so discontinued may be dealt with according to the proviso to Section 54, Chapter V of Act II of 1899.

XI.—No *ex-officio* vendor shall, as such, sell stamps otherwise than in accordance with the following directions :—

- (a) to a licensed or specially licensed vendor stamps of the kinds and values specified in the licensed vendor's license.
- (b) to any person impressed stamps exceeding Rs. 50 each in value;

Provided that no *ex-officio* vendor shall, as such, sell any stamp except upon immediate payment for the same.

XII.—(i) Every licensed or specially licensed vendor may subject to the conditions of his license and the requirements of these rules purchase from an *ex-officio* vendor and sell to any person stamps of any kind or value covered by his license.

(ii) Subject to the provisions of Chapter V of the Stamp Act, 1899, no licensed or specially licensed vendor shall obtain (by purchase, exchange or otherwise) any stamps from any person other than an *ex-officio* vendor.

XIII.—(i) If the duty on any document has to be denoted in the form of impressed sheets, it shall be so denoted by the smallest number of impressed sheets available by which the duty required can be made up.

(ii) If the amount of the stamp duty to be denoted is such that it can be denoted by a single impressed sheet, and such impressed sheet is available, it shall be supplied.

(iii) Whenever under these rules and directions more than a single impressed sheet is supplied to denote the value of the stamp duty required, the vendor shall write upon each impressed sheet supplied a certificate stating that he is unable to supply a single impressed sheet of the required value and that the number of impressed sheets supplied is the smallest he can furnish to make up that value.

(iv) A copy of every certificate endorsed under the preceding clause shall be entered in the vendor's vend register, and shall be dated and signed by the vendor making it.

XIV.—Every vendor shall truly and correctly endorse in the English or Urdu Character on every impressed sheet sold by him to the public the following particulars :—

(a) the serial number for the year of the entry of the sale of such impressed sheet in the vend register ;

(b) the date of the sale of the stamp ;

(c) the name, (if a native) father's name and residence of the purchaser ; if the purchaser is purchasing on behalf of another person, then also the name, (if a native) father's name and residence of the person for whom the impressed sheet is purchased ; and

(d) the value of the impressed sheet sold (to be entered in words) ; and shall sign the endorsement.

XV.—No vendor shall knowingly endorse on any impressed sheet sold the name of any person other than the actual purchaser, or the person on whose behalf the stamp is being purchased ; or deliver any stamp sold to any person other than the person whose name is so endorsed thereon.

XVI.—Every vendor shall truly and correctly enter in his vend register the particulars of every impressed sheet sold by him to the public at the time when the sale takes place. He shall also invite the purchaser to attest the entry by his signature or thumb impression, or both, and in the event of the purchaser refusing so to attest the entry of sale, the vendor, shall record the fact of such refusal and if the purchaser wishes, the reason for the refusal.

XVII.—Every licensed vendor shall exhibit conspicuously at his place of vend a sign-board, bearing his name and the words " Licensed vendor of Non-Judicial Stamps". He shall also have at the same place, for reference on application by intending purchasers, a copy of these rules and, if the Collector by general or special order so directs, a copy of the Indian Stamp Act.

#### REMUNERATION OF VENDORS.

XVIII.—(i) No *ex-officio* vendor shall, as such, be entitled to any discount or commission on the value of any stamps supplied to him for custody and sale, upon the sale thereof.

(ii) Licensed and specially licensed vendors shall be entitled to discount on the value of stamps purchased by them from an *ex-officio* vendor at the rates specified in the following Schedule: Provided that discount shall not be allowed on the value of any stamp of a kind not specified in the said Schedule, nor on the value of any single stamp of denomination higher than Rs. 50, nor when the total value of the stamps purchased at one time is less than Rs. 5.

## RATES OF DISCOUNT.

(a) Vendors holding ordinary licenses to sell stamps :—

Description of stamps.	RATES OF DISCOUNT.	
	At places where stamps are sold by Government.	At other places.
	Per cent. Rs. a. p.	Per cent. Rs. a. p.
<i>Adhesive.</i>		
One anna revenue labels ... ..	6 4 0	6 4 0
Other stamps not exceeding in value eight annas each ... ..	4 11 0	6 4 0
Exceeding eight annas, but not exceeding Rs. 5 each ... ..	2 9 8	3 2 0
Exceeding Rs. 5 but not exceeding Rs. 50 each ... ..	1 9 0	1 9 0
<i>Others.</i>		
Hundi stamps ... ..	4 11 0	6 4 0
Impressed stamp papers ... ..		

The Local Government may at its discretion direct that the rates of Rs. 4-11-0 and Rs. 2-9-8 per cent. prescribed in the scale for places where stamps are sold by Government shall be reduced to Rs. 3-2-0 and Rs. 1-9-0 per cent., respectively, in the case of any town with a population of 50,000 inhabitants or upwards.

(b) Government servants holding special licenses to sell stamps :—

On all stamps which they are licensed to sell  
under these rules.. .....2 per cent.

## VEND REGISTERS.

XIX.—(i) Every licensed and specially licensed vendor shall maintain the VEND REGISTER hereinafter prescribed, and such other registers, and shall keep such accounts, in such form as may be from time to time prescribed by the Superintendent of Stamps, Punjab.

(ii) Every licensed and specially licensed vendor shall maintain a VEND REGISTER in the form annexed to these rules, and shall regularly and correctly enter therein the following particulars :—

- (a) the date of sale of any impressed sheet sold ;
- (b) the serial number of the entry of every such sale ; a new series of numbers being commenced on the first day of each succeeding year ;
- (c) the value (in words) of each stamp sold, and the total value of stamps sold in each transaction ;
- (d) the description of stamps sold ;
- (e) the full name if a native, *father's name* surname (if any), and residence of the purchaser ;
- (f) the purpose for which the purchaser states that the stamp is purchased ;
- (g) copy of certificate (if any) required by rule XIII (iv).
- (h) Signature or thumb impression of purchaser, if the purchaser consent to sign the entry, or make the impression, and if he does not consent, the reasons for his not consenting, in case the purchaser states his reasons,



(iii) Blank Vend Registers in the prescribed form shall be supplied through the Collector's office free of charge to vendors on application.

(iv) Before issuing any blank Vend Register to a vendor, the Collector shall enter or cause to be entered at the beginning thereof the following particulars :—

(a) the full name and residence of the vendor to whom the register is being issued ;

(b) the date on which the register is issued ;

(c) the number of pages the register contains. The Collector shall also cause the pages to be numbered consecutively in ink.

(v) When any register becomes filled up the vendor shall deliver the same to the Collector or other officer deputed to receive the same.

#### INSPECTION AND CONTROL.

XX.—Every vendor shall upon the demand of the Collector, whenever required to do so, deliver up all stamps in his custody or possession as such vendor, and if such stamps have been paid for by such vendor, the value thereof less any discount which may have been allowed at the time of the purchase thereof to such vendor shall be refunded to him.

XXI. (i) The registers and accounts maintained by, and the stock of stamps in store with, any specially licensed vendor shall be subject to inspection at any time by the Superintendent of Stamps, Punjab, every Revenue Officer of rank not below that of Collector, and every officer whose duty it is to inspect departmentally the office of the Government servant holding the special license.

(ii) The registers and accounts maintained by, and the stock of stamps in store with, any vendor other than one holding a special license, shall be subject to inspection at any time by the Superintendent of Stamps, Punjab, every Revenue Officer of rank not below that of Collector, and every Revenue Officer below Collector's rank who has been specially authorised by the said Superintendent, Revenue Officer or Collector in that behalf.

(iii) Upon being so required by any officer authorised under clause (i) of this rule, every vendor shall produce for the purpose of inspection all stamps in his custody or possession and all registers and accounts kept by him as such vendor.

#### FORM A.

(Referred to in Rule VI.)

License is hereby granted to (*name, father's name and residence of licensee*) to sell at (*place of vend*) stamps of the description mentioned in the margin for a period of (*here state duration of license*) commencing from (*date*) subject to the rules made on that behalf, under S. 74 of the Indian Stamp Act, II of 1899. The infringement of any of these rules shall render the holder liable to cancellation of his license and the penalties prescribed in S. 69 of the said Act, namely, imprisonment for a term which may extend to six months or fine not exceeding five hundred rupees, or both.

This license may be revoked at any time by the Collector of the district in which it is granted or by any Revenue Officer to whom such Collector is administratively subordinate. On this license being revoked or when the term for which it is granted expires the person hereby licensed shall surrender the license at once to the Collector.

Date of issue of license.

Signature of Deputy  
Commissioner or other issuing  
authority.

# APPENDIX III-H.

## RULES FOR THE SALE OF STAMPS.

### THE UNITED PROVINCES.

U. P. Govt. Notification No. 206 XIII—14, dated the 22nd June 1907.

The United Provinces Government Gazette of the 29th June 1907.

*United Provinces Gazette, Part I, page 505.*

- Commencement, 1. These rules shall come into force at once.
- Definition, 2. The word "Collector" shall be deemed to have the meaning attached to it by the Indian Stamp Act, 1899.
3. The sale of any description of stamps (other than half-anna and one anna unified stamps), by any person who is not duly authorised in the manner hereinafter provided is prohibited.
- Sale of stamps.

NOTE.—This prohibition does not apply to the case of a legal practitioner or a banker, who buys a stock of stamps for use in his own business, and affixes them when occasion requires, to the documents he has to draw up in the course of that business, the costs of the stamps being recovered from his client or customer with the rest of his charges.

- Classes of vendors, 4. There shall be two classes of vendors, namely, (a) *ex-officio* vendors and (b) licensed vendors.
- (a) The following persons shall be deemed to be *ex-officio* vendors:—
- (1) the treasurer of each district, with his salaried assistant;
  - (2) the tahsildar of each tashil;
  - (3) any salaried vendor who may be appointed by the Government.
- (b) The Collector may grant a license to vend to any of the following persons, namely—
- (1) Lambardars of villages.
  - (2) Bakhshis in towns under the provisions of the Chaukidari Act XX of 1856.
  - (3) Poundkeepers.
  - (4) Kurkamins.
  - (5) Postmaster at places other than the head-quarters of a tahsil.
  - (6) village Schoolmasters.
  - (7) Non-official Sub-Registrars.
  - (8) Any other person deemed by the Collector to be fit and proper person for the sale of such stamps:

Sanction to appointment required in certain cases.

Provided that in the case of the appointment of postmasters, and sub-registrars the previous approval of the Postmaster-General, the Inspector of Schools, and the Registrar of the district, respectively, shall be obtained.

6. The license shall be in the form annexed to these rules. In the case of the persons specified in the sub-head (8) of rule 4 (b) it shall be granted to the person by name; in other cases the designation of the official only shall be entered therein.

Revocation of license. 7. A license may be revoked at any time by the Local Government or by the authority who granted it.

8. *Ex officio* vendors shall supply stamps to the public and to licensed vendors; and shall allow discount to the latter at the rates and under the conditions hereinafter prescribed for the purchases made from the Government.

9. Licensed vendors shall sell to the public such stamps as are indicated in their licenses. They shall ordinarily be restricted to the sale of the stamps of values not exceeding Rs. 25; but the Collector may for special reasons authorise sale of stamps not exceeding Rs. 50 each in value.

Method of supply of stamps to licensed vendors. 10. Licensed vendors shall obtain stamps from *ex-officio* vendors at local and branch Depots on payment of ready money (less the commission hereinafter prescribed).

11. \* \* \* \* \*

Discount and Commission. 12. (1) Every licensed vendor who purchases stamps from Government by payment of ready money shall receive the same at a discount not exceeding the following rates :—

Description of stamp.	SCALE OF DISCOUNT.					
	At places where stamps are sold by Government.					
	In towns of 50,000 or more inhabitants.		Elsewhere.		At other places.	
	Per cent.		Per cent.		Per cent.	
	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.
<i>Adhesive non-judicial stamps—</i>						
Stamps not exceeding in value 8 annas each...	8	2 0	4	11 0	6	4 0
Exceeding 8 annas but not exceeding Rs. 5 each ...	1	9 0	2	9 8	3	2 0
Exceeding Rs. 5 but not exceeding Rs. 50.	1	9 0	1	9 0	1	9 0
<i>Impressed sheets (non-judicial)—</i>						
Hundi stamps ...	8	2 0	4	11 0	6	4 0
Impressed stamp paper ...						

Provided that :—

(a) no discount shall be given on account of the purchase of stamps exceeding Rs. 50 each in value, nor on any stamp supplied on any material furnished by the purchaser himself ;

(b) to enable discount to be given, it is necessary that a minimum quantity of stamps of an aggregate value of not less than Rs. 5 shall be purchased at one time and that the value of the stamps purchased shall be in even rupees ;

(c) no discount shall be given on account of the purchase of half-anna and one anna unified stamps.



Stamps to be delivered on demand by Collector or on revocation to license, etc.

21. Every licensed vendor shall, at any time, on the demand of the Collector, deliver up all stamps, or any class of stamps, remaining in his possession.

22. Every licensed vendor shall at all times keep affixed in a conspicuous station outside the place of a vend signboard bearing the name of the

Signboard, etc. vendor with the words "Licensed Vendor of Stamps" in English and in the vernacular language of the district. He shall also keep in the place of vend the Act of the Legislature referring to the stamps sold by him and its schedules together with these rules in English and the vernacular placed, so that they may be readily seen and read by the purchasers.

Unsold stamps may be exchanged.

23. A licensed vendor may be allowed to exchange unsold stamps which are fit for use for other stamps of the same value.

24. Every licensed vendor shall keep such stock of stamps, including half-anna and one anna unified stamps, as the Collector may consider sufficient to meet the demand likely to be made upon the licensed vendor for their supply.

List of licensed vendors.

25. (1) A register of license issued shall be kept up in the Collector's office. It shall contain the following headings:—

- (a) Date of license.
- (b) Name of license.
- (c) Place of vend.
- (d) Amount of security, if any, taken.
- (e) Description of stamps to be sold under the license.
- (f) Remarks <sup>2</sup>(this column will show any change that may take place during the year).

(2) The register shall be subjected to annual revision as the licenses fall in. At such period lapses licenses should be called in and destroyed and sale registers should be inspected to ensure that they are properly kept up.

#### FORM OF LICENSE.

(See rule 6.)

License is hereby granted to (*name, father's name, and residence of licensee*) to sell at (*place of vend*) stamps of the description mentioned below for a period of (*here state duration of license*) commencing from (*date*), subject to the rules made on that behalf under the Indian Stamp Act, 1899. The infringement of any of these rules will render the holder liable to the penalty prescribed in Section 69 of Act II of 1899, *viz.*, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(*Here enter the description of stamps which may be sold.*)

DISTRICT.....

Dated.....

Collector.

## APPENDIX IV-A.

### EARLIER STAMP ACTS.

#### ACT I OF 1879.

[RECEIVED THE ASSENT OF HIS EXCELLENCY THE GOVERNOR-GENERAL ON THE 17TH JANUARY 1879.]

*An Act to consolidate and amend the law relating to Stamps.*

#### CHAPTER I.

#### PRELIMINARY.

Short title. 1. This Act may be called "The Indian Stamp Act, 1879."

Local extent. It extends to the whole of British India ;

Commencement. And it shall come into force on the first day of April 1879.

2. On and after that day, the Acts specified in the third schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules made under the General Stamp Act, 1869, and then in force shall, so far as they are consistent with this Act, be deemed to have been made hereunder. And all references made to the General Stamp Act, 1869, in enactments passed subsequently thereto, shall be deemed to be made to this Act.

Interpretation clause. 3. In this Act, unless there is something repugnant in the subject or context,—

"Banker." (1) "banker" includes a bank and any person acting as a banker ;

Bill of exchange. (2) "bill of exchange" includes a hundi :

(3) "bill of lading" means any instrument signed by the owner of a vessel or his agent acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated ;

"Bond." (4) "bond" means—

(a) any instrument whereby a person obliges himself to pay money to another on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another :

(5) "chargeable" means, as applied to an instrument executed or first executed after this Act comes into force, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed :

"Cheque" (6) "cheque" means a bill of exchange drawn on a banker and payable on demand :

(7) "Chief Controlling Revenue Authority" means in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue ; in the Presidency of Bombay, outside Sind and the limits of the town of Bombay, a Revenue Commissioner ; in Sind, the Commissioner in the Punjab, the Financial Commissioner ; and elsewhere the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office :

(8) "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a District, and includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office.

(9) "conveyance" means any instrument by which property (whether moveable or immovable) is transferred on sale :

(10) "duly stamped," as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed :

(11) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue authority.

(12) "lease" means a lease of immovable property and includes also

(a) a patta,

(b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immovable property,

(c) any instrument by which tolls of any description are let, and

(d) any writing on an application for a lease intended to signify that the application is granted :

(13) "mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of, another, a right over specified property :

(14) "paper" includes vellum, parchment or any other material on which an instrument may be written :

"Paper."

(15) "policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event :

it includes a life-policy, and includes also any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a larger term than six months :

it includes also a policy of sea-insurance such a policy (a) meaning any insurance made upon any ship or vessel, or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in or relating to, any ship or vessel, and (b) including any insurance of goods, merchandise or property for any transit which includes, not only a sea risk, but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

and where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending good merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance.

(16) "power-of-attorney" means any instrument not chargeable with a fee under the law relating to Court-fees for the time being in force empowering a specified person to act in the stead of the person executing it :

(17) "receipt" means any note, memorandum, writing or advertisement whereby any money or any bill of exchange, cheque or promissory note is acknowledged to have been received, or whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or which signifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person :

"Schedule." (18) "schedule" means a schedule to this Act annexed :

"Settlement," (19) "settlement" means any non-testamentary disposition in writing, of moveable or immoveable property made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or

(c) for any religious or charitable purpose :

It includes an agreement in writing to make such a disposition :

"Vessel." (20) "vessel" means anything made for the conveyance by water of human beings or property :

"Written," and (21) "written" and "writing" include every mode in which words or figures can be expressed upon paper.

Schedules to be read as part of Act.

4. The schedules and everything therein contained shall be read and construed as part of this Act.



## CHAPTER II.

## STAMP-DUTIES.

*A.—Of the Liability of Instruments to duty.*

**Instruments chargeable with duty.** 5. Subject to the exemptions contained in the second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say :—

(a) every instrument mentioned in the first schedule, and which not having been previously executed by any person, is executed in British India on or after the first day of April 1879 ;

(b) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India ; and

(c) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in the first schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

6. Where, in the case of any sale, lease, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed for the conveyance, lease, mortgage or settlement in the first schedule, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

The parties may determine for themselves which of the instruments so employed shall, for the purposes of this section, be deemed to be the principal instrument.

**Instruments relating to several distinct matters.** 7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

**Instruments coming within several descriptions in schedule I** Subject to the provisions of the first clause of this section, an instrument so framed as to come within two or more of the descriptions in the first schedule shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties ; but nothing herein contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

**Policies of sea-insurance.** 7-A. (1) No contract for sea-insurance (other than such insurance as is referred to in section 55 of the Merchant Shipping Act, Amendment Act, 1862), shall be valid unless the same is expressed in a policy of sea-insurance.

(2) No policy of sea-insurance made for time shall be made for any time exceeding twelve months.

(3) No policy of sea-insurance shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

7-B. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other certificates shall, in respect of such loan, be chargeable with a duty of eight annas per centum on the total amount of the bonds, debentures or other certificates issued by it and such bonds, debentures or other certificates need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other certificates from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other certificates of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other certificates shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other certificates from the duty chargeable in respect thereof prior to the twenty-sixth day of March 1897, when such duty has not already been paid or remitted by order issued under this Act.

Power to reduce or remit duty. 8. The Governor-General in Council may, by order published in the Gazette of India,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) cancel or vary such order to the extent of the powers hereby given.

*B,—Of Stamps and the Mode of using them.*

9. Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(a) according to the provisions herein contained, or

(b) when no such provision is applicable thereto—as the Governor-General in Council may by rule direct.

The rules made under this section may, among other matters, regulate—

(1) in the case of each kind of instrument—the description of stamps which may be used,

(2) in the case of instruments stamped with impressed stamps—the number of stamps which may be used,

(3) in the case of hundis—the size of the paper on which they are written.

Use of adhesive 10. The following instruments may be stamped with adhesive stamps, namely :—

(a) instruments chargeable with the duty of one anna except parts of bills of exchange payable otherwise than on demand and drawn in sets ;

- (b) bills of exchange, cheques and promissory notes drawn or made out of British India ;
- (c) entry as an advocate, vakil or attorney on the roll of a High Court ;
- (d) notarial acts ; and
- (e) transfers by endorsement of shares of public companies and associations.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty and which has been executed by any person, shall, Cancellation of adhesive stamps. when affixing such stamp, cancel the same so that it cannot be used again,

and whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

How instruments stamped with impressed stamps are to be written.

12. Every instrument written upon paper stamped with an impressed stamp, shall be written in such manner, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written ; provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods, the payment or delivery of which is secured thereby.

Instruments written contrary to S. 12 or 13 deemed unstamped.

14. Every instrument written in contravention of section twelve or thirteen, shall be deemed to be unstamped.

15. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application be made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument in such manner as the Governor-General in Council may by rule prescribe.

#### *C.—Of the Time of stamping Instruments.*

Instruments executed in British India.

16. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

17. Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India ; or, where such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, and he shall stamp the same in such manner as the Governor-General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

18. The first holder in British India of any bill of exchange, cheque, or promissory note drawn or made out of British India, shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same :

Provided that if, at the time any such bill, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section eleven, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled. But nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

*D.— Of Valuations for duty.*

Conversion of amount expressed in certain currencies.

19. Where an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs dollars, such duty shall be calculated on the value of such money in the currency of British India, according to the following scale :—

One pound sterling or pound currency is equivalent to ten rupees :

One hundred francs are equivalent to forty rupees :

One Mexican or China dollar is equivalent to two rupees four annas.

Conversion of amount expressed in other foreign currencies.

20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial currency such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Stock and marketable securities how to be valued.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instruments reserving interest.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money, or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty.

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

25. Where an instrument is executed to secure the payment of an annuity, or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument, or the consideration for such conveyance (as the case may be), shall, for the purposes of this Act, be deemed to be—

- (a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;
- (b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twelve years next after the date of such instrument or conveyance; and
- (c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the total amount which will or may be payable as aforesaid during the period of twelve years next after the date of such instrument or conveyance.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before this Act comes into force) could not have been ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

28. (a) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(b) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by *separate* instrument to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(c) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(d) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the whole, or any part, thereof, to any other person or persons, and the property is in consequence conveyed by the

original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last mentioned conveyance shall in no case be less than one rupee.

(e) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller; or where such duty would exceed five rupees, with a duty of five rupees.

#### *E.—Duty by whom payable.*

Duties by whom payable. 29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(a) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57 and 60 (a) and (b) of the first schedule—by the person drawing, making or executing such instrument:

(b) in the case of a policy of insurance—by the insured.

(c) in the case of a conveyance—by the grantee; in the case of a lease or agreement to lease—by the lessee or intended lessee;

(d) in the case of a counterpart of a lease—by the lessor;

(e) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein, or when the partition is made in execution of an order passed by a Revenue authority, in such proportion as such authority directs;

(f) in the case of an instrument of exchange—by the parties in equal shares; and

(g) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.

### CHAPTER III.

#### ADJUDICATION AS TO STAMPS.

30. When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable:

and may for that purpose require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Collector may call for abstract and evidence.

Provided that no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

31. When an instrument brought to the Collector under section thirty is in his opinion one of a description chargeable with duty and

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section thirty, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

When such instrument is in his opinion not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be; and if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Nothing in this section shall authorize the Collector to endorse—

any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution (as the case may be);

any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof on paper not duly stamped.

Payment of fees under section 30 how made.

32. Every payment of a fee under section thirty shall be made in stamps, or cash, as the Governor-General in Council may by rule direct.

#### CHAPTER IV.

##### INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. Every person having by law or consent of parties authority to receive evidence, and

every person in charge of a public office except an officer of Police,

before whom any instrument chargeable in his opinion with duty is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed.

Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound any instrument coming before

him in the course of any proceeding other than a proceeding under chapter twelve or chapter thirty-six of the Code of Criminal Procedure, 1882.

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may from time to time, in cases of doubt, determine who shall be deemed to be, for the purpose of this section, persons in charge of public offices.

Instruments not duly stamped inadmissible in evidence, &c.

34. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped :

Proviso.                      Provided that—

1st, any such instrument, not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;

and in certain criminal proceedings,

2nd, nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under chapter twelve or chapter thirty-six of the Code of Criminal Procedure, 1882.

Admission of instrument not to be questioned,

3rd, When an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

35. When the person impounding an instrument under section thirty-three has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section thirty-four, he shall send to the Collector an authenticated copy of such instrument, together, with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

In every other case, the person so impounding an instrument shall send it in original to the Collector.

36. When a copy of an instrument is sent to a Collector under the first paragraph of section thirty-five, he may, if he thinks fit, upon application made to him in this behalf, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument, or

when such instrument has been impounded only because it has been written in contravention of section twelve, or section thirteen, he may refund the whole penalty so paid.



Collector's power  
to stamp instru-  
ments impounded.

37. When the Collector impounds any instrument under section thirty-three, or receives any instrument sent to him under the second clause of section thirty-five, he shall adopt the following procedure :—

(a) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and shall upon application made to him in this behalf deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.

(b) If the Collector is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion, as he thinks fit :

Provided that, when such instrument has been impounded only because it has been written in contravention of section twelve or section thirteen, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

Every certificate under clause (a) of this section shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

38. If any instrument chargeable with duty and which is not duly stamped is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution and such person brings to the notice of the Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections thirty-three and thirty-seven, receive such amount and proceed as next hereinafter prescribed.

Nothing in this section applies to an instrument chargeable with a duty of one anna only or to a bill of exchange or promissory note.

39. When the duty and penalty (if any) leviable in respect of any instrument have been paid under section thirty-four, section thirty-seven or section thirty-eight, the person admitting such instrument in evidence, or the Collector (as the case may be), shall certify by endorsement thereon that the proper duty or (as the case may be) the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section thirty-four shall be so delivered before the expira-

tion of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate :

Provided also that nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.

Prosecution for  
offence against  
stamp-law.

40. The payment of a penalty under this chapter in respect of an instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp-law in respect of such instrument :

But no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears Proviso,  
to the Collector that the offence was committed with an intention of evading payment of the proper duty.

41. When any duty or penalty has been paid, under section thirty-four, section thirty-seven or section thirty-eight, by any person in respect of an instrument, and by agreement, or under the provisions of section twenty-nine or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid ; and for the purpose of such recovery any certificate granted in respect of such instrument under section thirty-nine shall be conclusive evidence of the matters therein certified.

Remission of  
penalty paid under  
section 34 or 37.

42. When any penalty is paid under section thirty-four or thirty-seven, the Chief Controlling Revenue Authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

Non-liability for  
loss of instruments  
sent under section  
35.

43. If any instrument sent to a Collector under the second paragraph of section thirty-five be lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first mentioned person and authenticated by the person impounding such instrument.

Copy may be  
made of instrument  
so sent.

44. When any bill of exchange or promissory note chargeable with the duty of one anna, or any cheque, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in manner hereinbefore provided may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid.

Power of payee to  
stamp bills, notes  
and cheques received  
by him unstamped.

But nothing herein contained shall relieve any person from any penalty he may have incurred in relation to such bill, note or cheque,

## CHAPTER V.

## REFERENCE AND REVISION.

45. If any Collector acting under section thirty, section thirty-seven or section thirty-eight feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision for the Chief Controlling Revenue Authority, and such Authority shall consider the case and send a copy of its decision to the Collector, and he shall proceed to assess and charge the duty (if any) in conformity with such decision.

46. The Chief Controlling Revenue Authority may state any case referred to it under section forty-five or otherwise coming to its notice and refer such case with its own opinion thereon, if the case arises in the territories for the time being administered by the Governor of Fort Saint George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay as the case may be if it arises in the North-Western Provinces or Oudh—to the High Court of Judicature for the North Western Provinces; if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab—to the Chief Court of the Punjab; if it arises in the Central Provinces—to the High Court of Judicature at Bombay; and if it arises in any other part of British India to the High Court of Judicature at Fort William.

Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

47. If the Court High or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

48. The High Court or Chief Court, upon the hearing of any such case, shall decide the question raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving such copy, dispose of the case conformably to such judgment.

49. If any Court other than a Court mentioned in section forty-six feels doubt as to the amount of duty to be paid in respect of any instrument under the first proviso to section thirty-four, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue Authority, he would under section forty-six refer the same, and such Court shall deal with the case as if it had been referred under section forty-six, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

References made under this section, when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court shall be made through the Court immediately superior.

50. When any Court in the exercise of a civil or revenue jurisdiction makes any order admitting any instrument in evidence as duly stamped

Revision of certain decisions of Courts regarding the sufficiency of stamps.

or as not requiring a stamp, or upon payment of duty and a penalty under section thirty-four, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration; and if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section thirty-four, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, any may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument; and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section thirty-nine, or in section forty, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that no such prosecution shall be instituted where the amount (including duty any penalty) which according to the determination of such Court was payable in respect of the instrument under section thirty-four is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

Provided also that, except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section thirty-nine.

## CHAPTER VI.

### ALLOWANCES FOR SPOILED STAMPS AND STAMPS NO LONGER REQUIRED.

51. Subject to such rules as may be made by the Governor-General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) The stamp on any paper inadvertently and undesignedly spoiled, obliterated or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any person;

(b) The stamp used or intended to be used for any bill of exchange, cheque or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negotiated, issued or put in circulation, or made use of in any other manner, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon:

(c) The stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed

or being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note :

(d) The stamp used for any of the following instrument, that is to say :—

(1) an instrument executed by any party thereto, but afterwards found by a competent Court to be absolutely void in law from the beginning :

(2) an instrument executed by any person, but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(3) an instrument executed by any party thereto but which, by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed :

(4) an instrument executed by any party thereto which, for want of the execution thereof by some material party and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(5) an instrument executed by any party thereto which, by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

(6) an instrument executed by any party thereto which becomes *useless* in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped :

(7) an instrument executed by any party thereto which is inadvertently and undesignedly *spoiled*, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that in the case of an executed instrument—

(a) such instrument is given up to be cancelled :

(b) the application for the relief is made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent out of British India, and in that case within six months after it has been received back in British India :

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

52. When any person has inadvertently used, for an instrument chargeable with

<p>Allowance for misused stamps.</p>	<p>duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or when any stamp used for an instrument has been inadvertently rendered useless under section fourteen owing to such instrument having been written in contravention of the provisions of section twelve, the Collector may, on application made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon</p>
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the instrument, if chargeable with duty, being restamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof (a) other stamps of the same

Allowance under sections 51 and 52 how to be made.

description and value, or, (b) if required, and he thinks fits, stamps of any other description to the same amount in values, or, (c) at his discretion, the same value in money, deducting one

anna for each rupee or fraction of a rupee.

54. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which

Allowance for stamps not required for use.

he has no immediate use, the Collector shall repay to such person the value of such stamp in money, deducting one anna for each

rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction that it was purchased by such person with a *bona fide* intention to use it, and that he has paid the full price thereof, and that it was so purchased within the period of six months next preceding he date on which it is so delivered.

## CHAPTER VII.

### SUPPLEMENTAL PROVISIONS.

55. The Local Government, subject to the control of the Governor-General in Council, may make rules consistent herewith for regulating the

Power to make rules relating to sale of stamps.

supply and sale of stamps and stamped papers, the persons, by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

Power to make rules generally to carry out Act.

56. The Governor-General in Council may make rules consistent herewith to carry out generally the purposes of this Act.

Certain powers exerciseable from time to time.

57. All powers to make appointments, rules and orders conferred by this Act may be exercised from time to time as occasion requires.

All rules made under this Act, other than rules made under section fifty-five shall be published in the Gazette of India, and all rules made under

Publication of rules.

section fifty-five shall be published in the local Gazette. All rules published as required by this section shall, upon such publi-

cation have the force of law.

58. Any person receiving any money exceeding twenty rupees in amount, or any

Obligation to give receipt in certain cases.

bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any moveable property exceeding twenty rupees in value shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Saving as to court-fees.

59. Nothing herein contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

60. Every Local Government shall cause this Act to be carefully translated into the principal vernacular languages of the territories administered

Act to be translated, indexed and sold cheaply.

by it. A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy

## CHAPTER VIII.

## CRIMINAL OFFENCES AND PROCEDURE.

61. Any person drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped.

Penalty for executing, etc., instrument not duly stamped.

any person executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, and

any person voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punished with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section thirty-four, section thirty-seven or section fifty the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

62. Any person required by section eleven to cancel an adhesive stamp and failing to cancel such stamp in manner prescribed by that section, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to cancel adhesive stamp.

Penalty for omission to comply with provisions of section 27.

63. Any person who, with intent to defraud the Government of any duty.

(a) executes any instrument in which all the facts and circumstances required by section twenty-seven to be set forth in such instrument are not fully and truly set forth, or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully any truly to set forth therein all such facts and circumstances, shall be punished with fine which may extend to five thousand rupees.

64. Any person who, being required under section fifty-eight to give a receipt, refuses or neglects to give the same, for who, with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered, shall be punished with fine which may extend to one hundred rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

65. Every person who—

(a) receives, or takes credit for any premium or consideration for any contract of insurance, and does not, within one month after receiving, or taking credit for, such premium or consideration make out and execute a duly stamped policy of such insurance, or

Penalty for not making out policy.

or making, etc., any policy not duly stamped.

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy,

shall be punished with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

66. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills of policies of which such bill or policy purports the set to consist, shall be punished with fine which may extend to one thousand rupees.

Penalty for post-dating bills, etc. ;

67. Whoever, with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made, and whoever, knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same,

for other devices to defraud the revenue.

and whoever, with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force,

shall be punished with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

68. Any person appointed to sell stamps who disobeys any rule made under section fifty-five, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Institution and conduct of prosecutions.

69. No prosecution in respect of any offence punishable under this Act, or the General Stamp Act, 1869, or any Act thereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

The Chief Controlling Revenue Authority, or any officer authorized by it in this behalf, may stay any such prosecution or compound any such offence.

Jurisdiction of Magistrates.

70. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

71. Every such offence committed in respect of instrument may be tried in any district or Presidency-town in which such instrument is found, as well as in any district or Presidency-town in which such offence might be tried under the law relating to criminal procedure for the time being in force.

Operation of other laws not barred.

72. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it :

Provided that no person shall be punished twice for the same offence.



## SCHEDULE I.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>1. <b>Acknowledgment of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a bankers's pass-book) or on a separate piece of paper, when such book or paper is left in the creditor's possession.</b></p>	<p>One anna.</p>
<p>2. <b>Administration Bond including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Saving Banks Act, 1873, section 78 of the Probate and Administration Act, 1881 or section 9 or section 10 of the Succession Certificate Act, 1889.</b></p>	<p>The same duty as a Security-Bond (No. 14.)</p>
<p><b>Adoption-Deed.</b></p>	
<p>See <i>Instrument No. 38.</i></p>	
<p>3. <b>Affidavit or declaration in writing on oath or affirmation made before a person authorized by law to administer an oath.</b></p>	<p>One rupee.</p>
<p>See <i>Exemptions, Schedule II (No. 1).</i></p>	
<p>4. <b>Agreement to Lease ... ..</b></p>	<p>The same duty as a Lease (No. 39).</p>
<p>5. <b>Agreement or Memorandum of an Agreement.</b></p>	
<p>(a) <b>If relating to the sale of any Government security, share in a Company or Association or Bill of Exchange.</b></p>	<p>One anna.</p>
<p>(b) <b>Whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government, and to accept rights in other land in exchange for the rights so relinquished.</b></p>	<p>Four annas.</p>
<p>(c) <b>If not otherwise provided for by this Act ...</b></p>	<p>Eight annas.</p>
<p>See <i>Exemptions, Schedule II (No. 2).</i></p>	
<p>6. <b>Appointment, in execution of a power, whether of trustees or of property moveable or immoveable, where made by any writing not being a Will.</b></p>	<p>Fifteen rupees.</p>
<p>7. <b>Appraisement or valuation made otherwise than under an order of the Court in the course of a suit.</b></p>	<p>The same duty as an Award (No. 10).</p>
<p>See <i>Exemptions, Schedule II (Nos. 3 and 4).</i></p>	
<p><b>Apprenticeship-deed.</b></p>	
<p>See <i>Instrument No. 31.</i></p>	
<p>8. <b>Articles of Association of a Company ...</b></p>	<p>Twenty-five rupees.</p>
<p>9. <b>Articles of Clerkship or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court.</b></p>	<p>Two hundred and fifty rupees.</p>

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.																																																																					
<p><b>Assignment.</b></p> <p>See <i>Conveyance No. 21 and Transfer No. 60.</i></p> <p><b>Authority to Adopt.</b></p> <p>See <i>Instrument, No. 38.</i></p> <p>10. <b>Award</b>, that is to say, any decision in writing by an arbitrator or umpire on a reference made otherwise than by an order of the Court in the course of a suit—</p> <p>(a) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000.</p> <p>(b) In any other case           ...           ...           ...</p> <p>See <i>Exemption, Schedule II (No. 6).</i></p> <p>11. <b>Bill of Exchange or Promissory Note</b>, not being a cheque, bond, bank-note or currency-note.</p> <p>(a) When payable on demand and the amount exceeds Rs. 20.</p> <p>(b) When payable otherwise than on demand but not more than one year after date or sight.</p> <p>If the amount of the bill or note does not exceed Rs. 200</p> <p>If it exceeds Rs. 200 and does not exceed Rs. 400</p> <p>      "      "      400                       "      "      600</p> <p>      "      "      600                       "      "      1,000</p> <p>      "      "      1,000                      "      "      1,200</p> <p>      "      "      1,200                      "      "      1,600</p> <p>      "      "      1,600                      "      "      2,500</p> <p>For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000                       ...</p> <p>For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 20,000.</p> <p>And for every Rs. 10,000 or part thereof in excess of Rs. 20,000</p> <p>(c) When payable at more than one year after date or sight.</p> <p>12. <b>Bill of Lading</b>                       ...                       ...                       ...</p> <p>See <i>Exemptions, Schedule II (No. 7).</i></p>	<p>The same duty as a Bond (No. 13) for such amount.</p> <p>Five rupees.</p> <p>One anna.</p> <table><tr><th rowspan="2">If drawn singly.</th><th rowspan="2">If drawn in set of two, for each part of the set.</th><th rowspan="2">If drawn in set of three, for each part of the set.</th><th colspan="3">Rs. A. P.</th></tr><tr><th>Rs.</th><th>A.</th><th>P.</th></tr><tr><td>0</td><td>2</td><td>0</td><td>0</td><td>1</td><td>0</td></tr><tr><td>0</td><td>4</td><td>0</td><td>0</td><td>2</td><td>0</td></tr><tr><td>0</td><td>6</td><td>0</td><td>0</td><td>3</td><td>0</td></tr><tr><td>0</td><td>10</td><td>0</td><td>0</td><td>5</td><td>0</td></tr><tr><td>0</td><td>12</td><td>0</td><td>0</td><td>6</td><td>0</td></tr><tr><td>1</td><td>0</td><td>0</td><td>0</td><td>8</td><td>0</td></tr><tr><td>1</td><td>8</td><td>0</td><td>0</td><td>12</td><td>0</td></tr><tr><td>1</td><td>8</td><td>0</td><td>0</td><td>12</td><td>0</td></tr><tr><td>3</td><td>0</td><td>0</td><td>1</td><td>8</td><td>0</td></tr><tr><td>6</td><td>0</td><td>0</td><td>3</td><td>0</td><td>0</td></tr></table> <p>The same duty as a Bond (No. 13) for the amount of such bill or note.</p> <p>Four annas.</p> <p>If a Bill of Lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.</p>	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.	Rs. A. P.			Rs.	A.	P.	0	2	0	0	1	0	0	4	0	0	2	0	0	6	0	0	3	0	0	10	0	0	5	0	0	12	0	0	6	0	1	0	0	0	8	0	1	8	0	0	12	0	1	8	0	0	12	0	3	0	0	1	8	0	6	0	0	3	0	0
If drawn singly.	If drawn in set of two, for each part of the set.				If drawn in set of three, for each part of the set.	Rs. A. P.																																																																
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## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
13. Bond not otherwise provided for by this Act or by the Court-Fees Act, 1870.	.
When the amount or value secured does not exceed Rs. 10.	Two annas.
When such amount or value exceeds Rs. 10, but does not exceed Rs. 50.	Four annas.
When such amount or value exceeds Rs. 50, but does not exceed Rs. 100.	Eight annas.
and for every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000.	Eight annas.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees eight annas.
See <i>Administration-Bond</i> (No. 2), <i>Customs-Bond</i> (No. 24), <i>Indemnity-Bond</i> (No. 28), <i>Security Bond</i> (No. 14).	
See <i>Exemptions, Schedule II</i> (No. 8).	
14. Bond or Mortgage-deed executed by way of security for the due execution of an office, or to account for money received by virtue thereof.	
(a) When the amount secured does not exceed Rs. 1,000.	The same duty as a Bond (No. 13).
(b) In any other case ... ..	Five rupees.
See <i>Exemption, Schedule II</i> (Nos. 8 and 12).	
15. Bottomry-Bond, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage	The same duty as a Bond (No. 13).
16. Certificate of Sale, granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer.	The same duty as Conveyance (No. 21) for a consideration equal to the amount of the purchase-money.
17. Certificate or other document evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Company or Association, or to become proprietor of shares, scrip or stock in or of any Company or Association	One anna,
18. Charter party, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer.	One rupee.
19. Cheque, for an amount exceeding twenty rupees.	One anna.
20. Composition-deed, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors	Ten rupees.

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>21. <b>Conveyance</b>, not being a TRANSFER mentioned in No. 60—</p> <p>When the amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50—</p> <p>When it exceeds Rs. 50, but does not exceed Rs. 100.</p> <p>For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000.</p> <p>And for every Rs. 500 or part thereof in excess of Rs. 1,000.</p> <p>See <i>Exemptions, Schedule II</i> (Nos. 5 and 17).</p> <p><b>Co-Partnership.</b> See <i>Instrument No. 32.</i></p>	<p>Eight annas.</p> <p>One rupee.</p> <p>One rupee.</p> <p>Five rupees.</p>
<p>22. <b>Copy or Extract</b>, certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees—</p> <p>(a) If the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee.</p> <p>(b) In any other case      ...      ...      ...</p> <p>See <i>Exemptions, Schedule II</i> (Nos. 9 and 10).</p>	<p>Eight annas.</p> <p>One rupee.</p>
<p>23. <b>Counterpart or Duplicate</b> of any instrument chargeable with duty, and in respect of which the proper duty has been paid—</p> <p>(a) If the duty with which the original instrument is chargeable does not exceed one rupee.</p> <p>(b) In any other case      ...      ...      ...</p>	<p>The same duty as is payable on the original.</p> <p>One rupee.</p>
<p>24. <b>Customs-Bond</b>      ...      ...      ...</p>	<p>The same duty as a Security-Bond (No. 14).</p>
<p>25. <b>Declaration of any Trust</b> of or concerning any property, when made by any writing not being a will.</p>	<p>Fifteen rupees.</p>
<p>26. <b>Delivery-order in respect of Goods</b>, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.</p> <p><b>Deposit of Title-Deeds.</b> See <i>Instrument No. 29.</i></p>	<p>One anna,</p>

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p><b>Dissolution of Partnership.</b></p> <p>See <i>Instrument No. 33.</i></p> <p><b>Duplicate.</b></p> <p>See <i>Counterpart, No. 23.</i></p>	
<p><b>27. Entry as an Advocate, Vakil or Attorney on the Roll of any High Court in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884—</b></p>	
<p>In the case of an Advocate or Vakil ... ..</p>	<p>Five hundred rupees.</p>
<p>In the case of an Attorney ... ..</p>	<p>Two hundred and fifty rupees.</p>
<p>See <i>Exemptions, Schedule II (No. 11).</i></p>	
<p><b>Exchange.</b></p> <p>See <i>Instrument No. 35.</i></p>	
<p><b>Extract.</b></p> <p>See <i>Copy No. 22.</i></p>	
<p><b>Further Charge.</b></p> <p>See <i>Instrument No. 30.</i></p>	
<p><b>Gift.</b></p> <p>See <i>Instrument No. 36.</i></p>	
<p><b>28. Indemnity-Bond ... ..</b></p>	<p>The same duty as a Security-Bond (No. 14).</p>
<p><b>Inspectorship-Deed.</b></p> <p>See <i>Composition-deed No. 20.</i></p>	
<p><b>29. Instrument evidencing an Agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property—</b></p>	
<p>(a) When such loan is repayable more than three months, but not more than one year, from the date of such instrument.</p>	<p>The same duty as a Bill of Exchange (No. 11 (b)) for the amount secured.</p>
<p>(b) When such loan is repayable not more than three months from the date of such instrument.</p>	<p>Half the duty payable on a Bill of Exchange (No. 11 (b)) for the amount secured.</p>
<p><b>30. Instrument imposing a further charge on mortgaged property.</b></p>	
<p>(a) When the original mortgage is one of the description referred to in No. 44, clause (a), of this schedule.</p>	<p>The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such instrument.</p>

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP DUTY.
(b) When such mortgage is one of the description referred to in No. 44, clause (b), of this schedule.	The same duty as a Bond (No. 13) for the amount secured by such instrument.
31. Instrument of Apprenticeship, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, except articles of clerkship (No. 9 of this schedule.)	Five rupees.
See <i>Exemption, Schedule II</i> (No. 12 (c)).	
32. Instrument of Co-partnership ...	Ten rupees.
33. Instrument of Dissolution of Partnership ...	Five rupees.
34. Instrument of Divorce, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee.
35. Instrument of Exchange of any property ...	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property of greater value as set forth in such instrument.
36. Instrument of Gift (other than a Settlement or Will).	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property as set forth in such instrument.
37. Instrument of Partition ...	The same duty as a Bond (No. 13) for the amount of the value of the property divided as set forth in such instrument.
38. Instrument (other than a Will) conferring or purporting to confer an authority to adopt. Insurance.	Ten rupees.
See <i>Policy, No. 49.</i>	
39. Lease including an under-lease or sub-lease—	
(a) Where by such lease the rent is fixed and no premium is paid or delivered and such lease purports to be for a term— of less than one year.	The same duty as a Bond (No. 13) for the whole amount payable or deliverable under such lease.

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
of not less than one year, but not more than three years.	The same duty as a Bond (No. 13) for the average annual rent reserved.
exceeding three years ... ..	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent reserved.
(b) Where by such lease the rent is fixed and no premium is paid or delivered and such lease does not purport to be for any definite term.	The same duty as Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent which would be paid for delivered for the first ten years if the lease continued so long.
(c) Where the lease is granted for a fine or premium, and where no rent is reserved.	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease.
(d) Where the lease is granted for a fine or premium, in addition to rent reserved.	The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered :

Provided that, when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

See *Agreement to lease* (No. 4).

See *Exemptions, Schedule II* (No. 13).

40. Letter of allotment of shares in any company, or proposed Company, or in respect of any loan to be raised by any Company or proposed Company.

One anna.

41. Letter of Credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.

One anna.

42. Letter of License, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.

Ten rupees.

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
43. <b>Memorandum of Association of a Company ...</b>	Fifteen rupees.
44. <b>Mortgage-deed</b> not provided for by No. 14, No. 15, No. 29 or No. 55 of this schedule.	
(a) When at the time of execution possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given.	The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such deed.
(b) When at the time of execution possession is not given or agreed to be given as aforesaid ...	The same duty as a Bond (No. 18) for the amount secured by such deed.
See <i>Exemptions, Schedule II (No. 12 and No. 14 (b).)</i>	
45. <b>Notarial Act</b> , that is to say, any instrument, endorsement, note, attestation, certificate or entry made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public.	One rupee.
46. <b>Note or Memorandum</b> sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value twenty rupees ...	One anna.
47. <b>Note of protest by the Master of a ship</b>	Eight annas.
<b>Partition.</b> See <i>Instrument No. 37.</i>	
<b>Partnership.</b> See <i>Instrument Nos. 32 and 33.</i>	
48. * * * [Repealed by Act V of 1886]. *	
49. <b>Policy of Insurance—</b>	Rs. A. P.
(a) In the case of sea-insurance—	
(1) for or upon any voyage—	
i. where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy.	0 1 0
ii. in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy.	0 2 0
(2) for time—	
iii. in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—	
Where the insurance shall be made for any time not exceeding six months	0 2
Where the insurance shall be made for any time exceeding six months and not exceeding twelve months	0 4 0

\* The repealed article ran as follows :—

48. **Petition for leave to file a specification of an Invention**, or for the extension of the term of the exclusive privilege of making or using or selling such invention in India. One hundred rupees.



## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.		
	RS.	A.	P.
(b) In the case of fire-insurance—			
i. in respect of an original policy for a month or any shorter term—			
When the amount insured does not exceed Rs. 1,000.	0	2	0
And for every further sum of Rs. 1,000 or part thereof in excess of Rs. 1,000.	0	2	0
ii. in respect of an original policy for more than one month but not more than three months—			
When the amount insured does not exceed Rs. 1,000.	0	3	0
And for every further sum of Rs. 1,000 or part thereof in excess of Rs. 1,000.	0	3	0
iii. in respect of an original policy for more than three months but not more than six months—			
When the amount insured does not exceed Rs. 1,000.	0	4	0
And for every further sum of Rs. 1,000 or part thereof in excess of Rs. 1,000.	0	4	0
iv. in respect of an original policy for a longer term than six months—			
When the amount insured does not exceed Rs. 1,000.	0	6	0
And for every further sum of Rs. 1,000 or part thereof in excess of Rs. 1,000.	0	6	0
v. in respect of renewing, for the purpose of keeping in force a policy which has been granted for six months or any shorter term and in respect of which and of the previous renewal whereof (if any) there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months.	The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy and of the previous renewal thereof (if any); whichever is the smaller sum.		
(c) In the case of any other insurance except such a re-assurance as is described in division (d) of this article	If drawn singly.	If drawn in duplicates, for each part.	
When the amount insured does not exceed Rs. 1,000.	Rs. A. P.	Rs. A. P.	
	0 6 0	0 3 0	
And for every further sum of Rs. 1,000 or part thereof in excess of Rs. 1,000.	0 6 0	0 3 0	
(d) In the case of a re-insurance, by an Insurance Company which has granted a policy of sea-insurance or a policy insurance against loss by fire, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.		1 0. 0	

See Exemption, Schedule II [No. 14 (a)]

## SCHEDULE I—(Continued.)

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
50. <b>Power-of-attorney</b> , not being a proxy chargeable under No. 51.	
(a) When executed for the sole purpose of procuring the presentation of one or more documents for registration in relation to a <i>single</i> transaction.	Eight annas.
(b) When authorizing one person or more to act in a single transaction other than that mentioned in (a).	One rupee.
(c) When authorizing not more than five persons to act jointly and severally in more than one transaction or generally.	Five rupees.
(d) When authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.	Ten rupees.
(e) In any other case ... ..	One rupee for each person authorized.
<i>Explanation.</i> —For the purposes of this number more persons than one when belonging to the same firm shall be deemed to be one person.	
<b>Promissory Note.</b>	
See <i>Bill of Exchange</i> No. 11.	
<b>Protest</b> , that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	
See <i>Notarial Act</i> No. 45.	
<b>Protest by the Master of a ship</b> , that is to say, any declaration of the particulars, of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	
See <i>Notarial Act</i> No. 45.	
51. <b>Proxy</b> , empowering any person to vote at any one meeting of—	
(a) Members of a Company whose stock or funds is or are divided into shares and transferable ... (b) Municipal Commissioners ... (c) Proprietors, Members or Contributors to the funds of any Institution ...	} One anna.
52. <b>Receipt for any money or other property the amount or value of which exceeds twenty rupees.</b>	One anna.
See <i>Exemptions, Schedule II</i> (No. 15).	

## SCHEDULE I—(Continued).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
53. Re-conveyance of mortgaged property.	
(a) If the consideration for which the property was mortgaged does not exceed Rs. 1,000.	The same duty as a Conveyance (No. 21) for the amount of such consideration as set forth in the re-conveyance.
(b) In any other case ... ..	Ten rupees.
54. Release, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property.	
(a) If the amount or value of the claim does not exceed Rs. 1,000.	The same duty as a Bond (No. 13) for such amount or value as set forth in the release.
(b) In any other case ... ..	Five rupees.
55. Respondentia-bond, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 13.)
56. Revocation of any trust of or concerning any property by any instrument other than a will.	Ten rupees.
57. Settlement ... ..	The same duty as a Bond (No. 13) for a sum equal to the amount or value of the property settled as set forth in such settlement.
58. Shipping-order for or relating to the conveyance of goods on board of any vessel.	One anna.
<b>Specification.</b>	
See <i>Petition No. 48.</i>	
59. Surrender of lease—	
(a) When the duty with which the lease is chargeable does not exceed five rupees.	The duty with which such lease is chargeable.
(b) In any other case ... ..	Five rupees.
See <i>Exemption, Schedule II (No. 16).</i>	
60. Transfer.	
(a) Of shares in a Company or Association.	One-quarter of the duty payable on a Conveyance (No. 21).
(b) Of any interest secured by a Bond, Mortgage-deed or Policy of Insurance—	
1. If the duty on such Bond, Mortgage-deed or Policy does not exceed five rupees.	The duty with which such Bond, Mortgage-deed or Policy of Insurance is chargeable.

## SCHEDULE I—(Concluded).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
2. In any other case ... ..	Five rupees.
(c) Of any property under the Administrator-General's Act, 1874, section 31.	Ten rupees.
(d) Of any trust-property from one trustee to another trustees without consideration.	Five rupees.
See <i>Exemptions, Schedule II (No. 17)</i> .	
60A. Transfer of lease by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 21.)
Trust.	
See <i>Declaration No. 25, Revocation No. 56</i> .	
Valuation.	
See <i>Appraisalment No. 7</i> .	
61. Warrant for Goods, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Four annas.

## SCHEDULE II.

## INSTRUMENTS EXEMPTED FROM STAMP-DUTY.

## 1. Affidavit or declaration in writing when made—

- (a) as a condition of enlistment under the Indian Articles of War ;
- (b) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or
- (c) for the sole purchase of enabling any person to receive any pension or charitable allowance.

## 2. Agreement or memorandum of agreement—

- (a) for or relating to the sale of goods or merchandize exclusively, not being a note or memorandum chargeable under No. 46 of schedule I ;
- (b) [Repealed by Act XII of 1891.]
- (c) made by raiyats for the cultivation of the poppy for Government
- (d) made in the form of tenders to the Government of India for or relating to any loan ;
- (e) [Repealed by Act XII of 1891.]
- (f) made under the European Vagrancy Act, 1874, section 17.

3. Appraisalment or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

## SCHEDULE II.—(Continued).

4. Appraisalment of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

5. Assignment of copyright by entry made under Act No. XX of 1847, section 5.

6. Award under Bombay Act VI of 1873, section 81, or Bombay Act III of 1874, section 18.

7. Bill of lading, when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.

8. Bond when executed by—

(a) the sureties of middlemen (lambadars or khattadars) taking advances for the cultivation of the poppy for Government ;

(b) headmen nominated under rules framed in accordance with Bengal Act III of 1876, section 99, for the due performance of their duties under that Act ;

(c) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

9. Copy of any paper which a public officer is expressly required by law to make or furnish or record in any public office or for any public purpose.

10. [Repealed by Act XII of 1891.]

11. Entry—

(a) of an advocate, vakil or attorney on the roll of any High Court, when he has previously been enrolled in a High Court ;

(b) [Repealed by Act XII of 1891.]

12. Instruments—

(a) executed by persons taking advances under the Land Improvement Loans Act, 1883, or by their sureties, as security for the repayment of such advances ;

(b) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof ;

(c) of apprenticeship executed by a Magistrate under Act XIX of 1850 or by which a person is apprenticed by or at the charge of any public charity.

13. Leases and Counterparts—

(a) leases of fisheries granted under the Burma Fisheries Act, 1875 ;

(b) lease, executed in the cases of a cultivator without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees ;

(c) counterpart of any lease granted to a cultivator.

14. Letter—

(a) of cover or engagement to issue a policy of insurance ;

## SCHEDULE II—(Concluded).

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

(b) of hypothecation accompanying a bill of exchange.

## 15. Receipt—

- (a) endorsed on or contained in any instrument duly stamped, or exempted under this schedule, No. 13, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured ;
- (b) for any payment of money without consideration ;
- (c) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of inam lands ;
- (d) for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity ;
- (e) for pensions or allowances by person receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers and not serving the Government in any other capacity ;
- (f) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity ;
- (g) given by a headman or lambardar for land-revenue or taxes collected by him ;
- (h) given for money or securities for money deposited in the hands of any banker, to be accounted for :

Provided the same be not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for ;

Provided also, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

## 16. Surrender of lease when such lease is exempted from duty.

## 17. Transfers by endorsement—

- (a) of a bill of exchange, cheque or promissory note ;
- (b) of a bill of lading ;
- (c) of a policy of insurance ;
- (d) of mortgages of rates and taxes authorised by any Act for the time being in force in British India ;
- (e) of securities of the Government of India ;
- (f) of a warrant for Goods (No. 61 of Schedule I.)

*General Exemption.*

18. Any instrument executed by, or on behalf of, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

## SCHEDULE III.

[ACTS REPEALED.]

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright ...	In section five, the words "without being subject to any stamp or duty".
X of 1866 ...	The Indian Companies Act.	In section eleven, the words "shall bear the same stamp as if it were a deed, and".  In section sixteen the words "they shall bear the same stamp as if they were contained in a deed".
XVIII of 1869 ...	The General Stamp Act...	The whole.
VII of 1871 ...	The Indian Emigration Act.	In sections twenty-seven and twenty-nine, the words "which shall not require a stamp".
XIX of 1873 ...	The North-Western Provinces Land Revenue Act, 1873.	In section one hundred and eighty-three the words "stamped or".
II of 1874 ...	The Administrator-General's Act.	In section thirty-one, the words "bearing stamp of ten rupees and".
IX of 1874 ...	The European Vagrancy Act.	In section seventeen, the words "may be on unstamped paper and".
XV of 1876 ...	Bombay Municipal Debentures.	In section two, the words "and no such endorsement shall be chargeable with any stamp-duty".

# APPENDIX IV-B.

## ACT XVIII OF 1869.

[RECEIVED THE GOVERNOR-GENERAL'S ASSENT ON THE  
13TH AUGUST, 1869.]

*An Act for imposing Stamp Duties on certain Instruments.*

### CHAPTER I.

#### PRELIMINARY.

Short title.	1. This Act may be called 'The General Stamp Act, 1869.'
Extent of Act.	It extends to the whole of British India.
Commencement of Act.	And it shall come into force on the first day of January, 1870.

2. On and after that day, the enactments specified in the third schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

3. In this Act and the first and second schedules hereto annexed, unless there be something repugnant in the subject or context—

(1) 'Affidavit' includes every declaration in writing, on oath or affirmation made before a person authorized by law to administer an oath :

(2) 'Award' includes every decision in writing by an arbitrator or umpire :

(3) 'Bill of Exchange' includes a hundi and every other instrument (except cheque) whereby a person is ordered to pay to another a specified sum of money :

(4) 'Bill of Lading' includes every instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a port and to a person therein mentioned or indicated :

(5) 'Bond' includes every instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be :

(6) 'Bottomry-bond' includes every instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage :

(7) 'Charter-party' includes every instrument (except an agreement for the hire of a tug-steamers) whereby a ship or some principal part thereof is let for the specified purposes of the charterer :

(8) 'Cheque' includes every instrument whereby a bank, banker, or person acting as a banker is ordered to pay on demand a specified sum of money :

(9) 'Collector' means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, and, without those limits, the Collector of a District, and includes Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District :



(10) 'Composition-deed' includes every instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors :

(11) 'Conveyance' means any instrument (except a transfer of a share in a company or association, a mortgage deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition deed, an instrument of gift or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition) by which property is conveyed inter vivos :

(12) 'Counterpart' means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument ; it includes a *kabuliyat* in cases where a lease has been granted :

(13) 'Dock-warrant' includes every instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be :

(14) 'Impressed' includes 'printed' and 'lithographed.'

(15) 'Lease' includes every instrument (not being a counterpart) by which one person lets or agrees to let, or takes or agrees to take, immoveable property to or from another .

(16) 'Letter of credit' includes every instrument by which one person requests another to give credit to the person in whose favour it is drawn :

(17) 'Letter of license' includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion :

(18) 'Mortgage-deed' includes every instrument evidencing a pledge of property for securing the payment of money :

(19) 'Negotiable instrument' includes bills of exchange, promissory notes and cheques :

(20) 'Notarial act' means any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, or other person authorized by law to act as a Notary Public :

(21) 'Paper' includes vellum, parchment or any other material on which an instrument may be written :

(22) 'Partition-deed' means any instrument whereby persons interested in immoveable property jointly, or in common, or as co-parceners, or as members of an undivided Hindu family, divide or agree to divide such property in severalty, and includes a *batwara* :

(23) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage, or liability arising from an unknown or contingent event ; it does not include a policy on life.

(24) 'Power-of-attorney' includes every instrument (except a proxy) empowering a person to act in the stead of the person executing it :

(25) 'Promissory note' includes every instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight :

(26) 'Property' means property being in British India :

(27) 'Protest' means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a bill of exchange or promissory note :

(28) 'Protest of the master of a ship' includes every declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship :

(29) 'Proxy' means an instrument whereby a person authorizes another to vote for him at a meeting :

(30) 'Release' includes every instrument whereby a person renounces a claim upon another person or against any specified property :

(31) 'Respondentia-bond' includes every instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination : and

(32) 'Settlement' means any instrument (other than a will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled.

## CHAPTER II.

### STAMP-DUTIES CHARGEABLE UNDER THIS ACT.

4. For every instrument mentioned in the first and second schedules hereto, and executed in British India on or after the first day of January 1870,

or executed out of British India on or after that day, but relating to any property within British India, there shall be payable to the Government of India, as stamp duty, the amount indicated in the first or second schedule hereto annexed, to be the proper duty for such instrument.

5. (a) All instruments chargeable under this Act with the duty of one anna, bills of exchange and promissory notes drawn or made out of British India, and transfers by endorsement of shares of companies and associations, may (subject to the provisions herein-after contained) be stamped with adhesive stamps.

(b) The stamp on every other instrument chargeable under this Act shall either be impressed on the paper whereon the instrument is written, or be otherwise denoted by the Collector or the Superintendent of Stamps in accordance with such rules as the Governor General of India in Council may from time to time prescribe in this behalf.

6. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

1st—In the case of any instrument mentioned in the first schedule to this Act other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract), by the person drawing, making, or executing such instrument :

2nd—In the case of a policy of insurance, by the insured ;

3rd—In the case of a settlement, by the settlor ;

4th—In the case of a conveyance, mortgage-deed or lease, by the grantee, mortgagor or lessee ;

5th—In the case of a counterpart of a lease, by the lessor ;

6th—In the case of a partition-deed by the parties thereto, in proportion to their respective shares in the property comprised therein : and

7th—In the case of an exchange, where money is paid for equality of exchange, by the person paying such money.

7. The duty imposed by this Act on bills of exchange shall be chargeable (a) on all bills drawn and payable in British India, (b) on all bills drawn in, but payable out of, British India, and (c) on all bills drawn out of, but accepted, or paid, or endorsed, transferred, or otherwise negotiated within, British India.

Duties on bills of exchange.

8. The holder of any bill of exchange or promissory note drawn or made out of British India, and not stamped as required by this Act, shall, before he presents the same for acceptance or for payment, or endorses, transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps, for denoting the duty with which it is chargeable under this Act.

Bills drawn out of British India.

9. Where interest is expressly made payable by the terms of an instrument such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instruments reserving interest.

10. When the consideration set forth in or the amount secured by any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration of amount shall, for the purposes of this Act, be estimated according to the following scale :—

Consideration expressed in foreign currency.

One pound sterling or pound currency is equivalent to ten rupees.

One hundred francs are equivalent to forty rupees.

One Mexican or China dollar is equivalent to two rupees four annas.

One Mauritius dollar is equivalent to two rupees.

11. When the amount or value of the subject-matter of any bond, mortgage-deed, or settlement chargeable under this Act with an *ad valorem* stamp duty and referred to or mentioned in section six cannot be ascertained, the proper stamp to be borne by such instrument may be determined by the person bound under that section to bear the expense of providing the stamp :

Optional stamps where value of subject-matter is indeterminate.

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

12. The whole amount secured for the payment of an annuity, or other sum payable periodically for an indefinite time by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Bond, etc., for payment of annuity.

Where the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Consideration an annuity.

13. Where more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, settlement, conveyance, or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance, or lease shall be borne by the principal instrument executed in such transaction, and each of the other instruments shall bear a stamp of one rupee.

The parties may determine for themselves which of such instruments shall, for the purposes of this section, be deemed to be the principal instrument :

Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

14. An instrument so framed as to come within two or more of the definitions in section three shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates :

Provided that when any one instrument purports, for distinct considerations, to convey by way of sale, to lease, to give, or to mortgage two or more subject-matters,

or to convey by way of sale, to lease, or to give one subject-matter and to mortgage another.

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts, or mortgages would be liable under this Act.

15. Nothing in this Act shall render the following instruments chargeable with duty :—

(1) Receipt or discharge granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inam lands.

(2) Receipt given for money or securities for money deposited in any bank, or in the hands of any banker or person acting as a banker, to be accounted for :

Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for :

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share or in respect of a call upon any scrip or share of or in any company or association or proposed or intended company or association.

(3) Receipt or discharge endorsed on or contained in any instrument duly stamped according to the law in force in British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment, thereby secured.

(4) Transfer by endorsement of a negotiable instrument or a policy of marine insurance or of insurance against fire.

(5) Letters of hypothecation accompanying a bill of exchange.

(6) Transfers of securities of the Government of India.

(7) Bond to Government for the due performance of the duties of any salaried office.

(8) Agreement or memorandum of an agreement for or relating to the sale of goods or merchandize.

(9) Lease granted to a cultivator, unless a fine or premium be paid in consideration of such lease,

(10) Counterpart of such lease.

(11) Surrender of land executed by a cultivator to his landlord.

(12) Affidavit made for the sole purpose of enabling any person to receive any pension or charitable allowance.

(13) Copy of any paper which a public officer is by law required to make or furnish in his official capacity.

(14) Copies made for the private use only of any person having the custody of the original instrument or of his counsel, attorney, or vakil.

(15) Receipt or other instrument executed by or on behalf of Government in cases where the Government would, but for this exemption, be liable to pay for the stamp thereon.

(16) Letter of cover or engagement to issue a policy of insurance :

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

16. The Governor General of India in Council may, from time to time ; by order published in the Gazette of India, reduce or remit in the whole or any part of British India the duties chargeable under this Act on all or any of the instruments mentioned in the first and second schedules thereto annexed, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the said schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may, in like manner, cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the Gazette of India.

17. Nothing in this chapter, or in the schedules hereto annexed, shall be deemed to affect the stamp-duties chargeable under Act XXVI of 1867, section six, or under any other enactment relating to stamps used in judicial proceedings.

Saving of judicial stamp duties.

### CHAPTER III.

#### UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

18. (a) No instrument chargeable with stamp-duty shall be received in any court of justice, or by any person having by law or consent of parties authority to receive evidence, as creating, modifying, transferring or extinguishing, or purporting to create, modify, transfer or extinguish, any right or obligation,

Instruments not duly stamped inadmissible in evidence.

or as evidence in any civil proceeding,

or shall be acted upon in any such court, or by any such person as aforesaid, or by any public officer,

or shall be registered by any officer acting under any law for the registration of assurances or in any public office,

or shall be authenticated by any public officer,

unless such instrument bears a stamp of a value not less than the amount of the duty with which it is chargeable under the law in force in British India at the time of its execution.

(b) Every instrument chargeable with stamp-duty shall be admitted in evidence in any criminal proceedings (other than proceedings under chapter XL of the Code of Criminal Procedure), although it may not have the stamp required by law impressed thereon or affixed thereto.

19. Subject to the provisions contained in section twenty-six, no person taking a bill of exchange or promissory note requiring a stamp under section eight, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it the proper stamp is affixed thereto and cancelled in manner directed by this Act.

20. When any instrument chargeable with stamp-duty executed on paper not bearing the stamp required by the law in force in British India at the time of its execution is produced in a civil court, the Court, if satisfied that the omission to execute such instrument on paper bearing the proper stamp did not arise out of any intention to evade payment of the proper duty, and on payment of such duty, or in the case of an insufficiently stamped instrument, of the sum required to make up the full amount chargeable on such instrument.

together with a penalty of the following amount (that is to say) :—

if the instrument is produced within one year from the date of its execution, five times, or if it is produced after one year from such date, twenty times such proper stamp-duty or deficient portion thereof as aforesaid.

shall certify by endorsement on such instrument that the proper stamp-duty has been levied thereon :

Provided that no such penalty shall exceed one thousand rupees.

Such certificate shall be conclusive evidence as to the amount of stamp-duty leviable on such instrument, and the said instrument shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

21. (a) An entry of every such payment showing the amount thereof shall be made in a book to be kept by the court, and shall also be endorsed on the instrument in respect of which the payment is made, and such endorsement shall be signed by the presiding officer.

(b) The court shall at the end of every month make a return to the Collector of the money (if any) which it has so received, distinguishing between the sums received by way of penalty and the sums received by way of duty, stating the number and title of the suit, the name of the party from whom the money was received, and the date (if any) and description of the instrument.

(c) The court shall pay over all money so received to the Collector, or to such person as he may from time to time appoint to receive the same.

22. If it appear to a civil or criminal court that any instrument filed or exhibited in such court was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the stamp-duty required by the law in force in British India at the time of its execution, the court may impound the instrument and send it to the Collector, and he shall thereupon prosecute the offender.

23. When any instrument is produced before any registering officer, or in any public office than a civil or criminal court, if it appear to the registering officer or to the head of such public office that the instrument is chargeable with stamp duty under the law in force in British India at the time of its execution, but that it does not bear a stamp of value equal to or exceeding the value of the stamp prescribed hereof by that law, he shall impound the instrument, and send it forthwith to the Collector.

24. (a) When any instrument is produced before the Collector, otherwise than for the purpose of obtaining an adjudication under section thirty-nine, or has been sent to him under section twenty-three, he shall either proceed in accordance with the provisions of section twenty, exercising the powers thereby conferred on a civil court; or, if it appear to him that the instrument was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the proper stamp-duty, he shall prosecute all the persons that have executed the said instrument, or such of them as to him may seem fit;

or if it appear to him that the instrument is properly stamped, or that it is not chargeable with stamp-duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is properly stamped, or that it is not so chargeable (as the case may be); and he shall thereupon return such instrument to the registering or other public officer by whom it was sent, or to the person by whom it was produced, and subject to the provision contained in section forty, it shall be deemed to be properly stamped or not chargeable (as the case may be).

(b) Provided that, in any case coming under this section, if the instrument is brought within one year from the date of its execution to the Collector, or other public officer by whom it has been sent to the Collector under section twenty-three, and if the Collector is satisfied that such instrument has not been duly stamped previously to being signed or executed by reason of accident, mistake, inadvertence or urgent necessity, he may remit the whole or any part of the penalty prescribed by section twenty:

(c) Provided also that, in any case coming under this section in which an instrument, other than a bill of exchange or promissory note, purports to have been executed out of British India, if the Collector is satisfied that the instrument was so executed, and also that it has been brought to him within the three months next after its arrival in British India he shall, on payment of the duty with which such instrument would have been chargeable if executed in British India, certify by endorsement thereon that the proper stamp-duty has been levied upon it.

(d) Subject to the provision contained in section forty, such certificate shall be conclusive evidence of the amount of stamp-duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

25. When the Collector elects to proceed under section twenty, he shall (if he imposes a penalty), after endorsing on the instrument the certificate thereby directed, or (if he remits the whole of the penalty) after endorsing on the instrument a certificate to that effect, return such instrument to the registering or other public officer by whom it was sent or to the person by whom it was produced.

Subject to the provision contained in section forty, the said instrument shall thereupon be, and be deemed to have been, as valid as if it was originally executed on paper bearing the proper stamp.

Loss of instruments sent under sections 22, 23, 24 or 25.

In case any instrument sent or returned under sections twenty-two, twenty-three, or twenty-four, or the former part of this section, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

26. (a) When any bill of exchange, promissory note, cheque or order for the payment of money on demand by any banker or person acting as a banker, chargeable hereunder with the duty of one anna, comes to his hands unstamped, he may affix thereto the necessary adhesive stamp, and cancel the same in the manner required by this Act, and upon so doing, may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

(b) Such bill, note, cheque or order shall, so far as relates to the stamp-duty chargeable thereon, be valid; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note, cheque or order unstamped.

27. (a) Any person, or the agent of any person, from whom money exceeding in amount twenty rupees is due or claimed to be due, and who shall have paid such money, may provide a piece of paper with an adhesive stamp of one anna affixed thereto, and may require of the person entitled to such money, or any agent to whom the same shall have been paid, a receipt for such money and also the value of the said stamp.

(b) If any one to whom money shall have been so paid refuses to give such receipt upon demand thereof, or to pay the value of the said stamp thereon, he shall be liable for every such offence to a fine not exceeding one hundred rupees.

28. Except as provided in sections eight and twenty-six, no stamp shall be affixed to, or impressed on, any bill of exchange, or promissory note, or any instrument chargeable hereunder with the duty of one anna, subsequent to the execution thereof; nor shall the provisions of sections twenty and twenty-four apply to any such instrument.

#### CHAPTER IV.

##### CRIMINAL PENALTIES.

29. Any person or firm making, signing or issuing, or, except as provided in section twenty-six, accepting, endorsing, paying or receiving any bill of exchange, promissory note, cheque or other similar instrument liable to any of the duties hereby imposed without the same being duly stamped,

and any person making, executing, or signing, otherwise than as a witness, any other instrument liable to any of such duties without the same being duly stamped, shall, for every such offence, be liable to fine not exceeding one hundred rupees, or, if ten times the value of the proper stamp exceeds one hundred rupees, to fine not exceeding ten times such value;

or, where an insufficient stamp has been used, if ten times the deficient amount exceeds one hundred rupees, to fine not exceeding ten times such amount.

30. Any person or firm presenting for acceptance or for payment, or accepting, paying, endorsing, transferring or in any manner negotiating, any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to fine not exceeding one hundred rupees.



Cancelling stamps on foreign bills by holder.

31. Any person or firm presenting for acceptance or payment a bill of exchange or promissory note to which an adhesive stamp has been affixed under section eight,

and any person or firm endorsing, transferring, or in any manner negotiating such bill or note,

shall, before delivering the same out of his or its hands, custody, or power cancel the stamp so affixed, in such manner as to show that the stamp has been made use of, and so that the same shall not admit of being used again.

Any person or firm who or which ought, as directed by this Act, to cancel such stamps in manner aforesaid, and refusing or neglecting so to do, shall be liable for every such offence to fine not exceeding one hundred rupees.

Penalty for failure to cancel such stamps.

32. Any person or firm drawing or executing within British India a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped as required by this Act the whole number of bills or policies of which such bill or policy purports the set to consist, shall, for every such offence, be liable to fine not exceeding one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

33. Whenever an adhesive stamp is used as hereinbefore authorized, the person making or executing the instrument to which such stamp is affixed shall, before delivering the instrument out of his hands, custody or power, cancel the stamp so used, so that it cannot be used again.

Cancellation of adhesive stamp by maker or executant.

Penalty for failure to cancel such stamps.

Any person making or executing such instrument and failing to cancel the stamp affixed thereto in manner aforesaid shall, for every such offence, be liable to fine not exceeding one hundred rupees.

34. (a) When any moveable or immovable property is sold, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured, for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold is conveyed to, or vested in, the purchaser or in any other person by his direction.

Consideration to be stated.

(b) When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum, shall be deemed the consideration-money or part of the consideration-money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid, notwithstanding the purchaser is not or does not become personally liable for such debt or sum, or does not agree to pay the same or to indemnify the seller against the same.

Mortgage-money to be deemed purchase-money.

(c) If the full consideration-money is not set forth as aforesaid, the purchaser and the seller shall each be liable to fine not exceeding five hundred rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act if the full consideration money had been duly set forth in such instrument, in addition to the duty actually paid for the same.

Penalty for not stating consideration.

35. Any attorney, vakil, pleader, mukhtar or other person employed in or about

Penalty on attorneys, etc., not inserting true consideration.

the preparing of any instrument in or upon which the full consideration-money is hereby required to be truly set forth, or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned, who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money shall for every such offence, pay a fine not less than five hundred rupees and not exceeding five thousand rupees.

Every attorney, vakil, pleader and mukhtar convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakil, pleader or mukhtar :

Provided that no person shall be liable to any penalty or disability under this section, unless the duty actually paid for the instrument is less than would have been payable for the same in case the consideration-money had been truly set forth as aforesaid.

Abatement.

36. Whoever abets within the meaning of the Indian Penal Code any offence made punishable by this Act shall be punished with the punishment hereinbefore provided for such offence.

37. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of towns of the Calcutta, Madras, and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those

limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm, or to all or any of the members thereof.

38. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted.

Reward to informers.

## CHAPTER V.

### JURISDICTION.

39. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the duty with which it is so chargeable, and pays a fee of five rupees, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable ; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, and of the penalty, if any, incurred through the instrument having been executed on insufficiently stamped paper, shall certify by endorsement on such instrument that the full duty with which it is chargeable under this Act has been paid.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all courts and public offices as if originally executed on paper bearing the proper stamp :

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement on bills of exchange, promissory notes, or

instruments chargeable with the stamp-duty of one anna when brought to him on unstamped or insufficiently stamped paper subsequent to the drawing or execution thereof.

Revision of Collector's certificates and orders.

40. All certificates and orders of the Collector under this Act shall be open to revision on appeal or otherwise by the Chief Controlling Revenue Authority to which the Collector is subordinate :

Provided that no order passed on such revision shall invalidate any registration or other proceeding previously made or taken of or upon an instrument endorsed by the Collector under section twenty-four or section twenty-five.

41. (a) The Chief Controlling Revenue Authority may state any case coming before it under this Act and refer such case with its own opinion thereon, if the case arises in the Presidency of Fort St. George or the Presidency of Bombay, to the local High Court, and if it arises in any other part of British India, to the High Court at Fort William.

(b) Every such case shall be decided at least three Judges of the High Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

(c) If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(d) The High Court upon the hearing of any such case shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded ; and it shall send to the Revenue Authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

Power to remit penalties.

42. The Chief Controlling Revenue Authority may, upon petition, remit wholly or in part any penalty imposed under this Act,

Institution and conduct of prosecutions.

43. All prosecutions in respect of any offence punishable by this Act shall be instituted and conducted by the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf.

44. Offences punishable under this Act may be tried within the limits of the towns of Calcutta, Madras and Bombay by a Magistrate of Police, and beyond those limits by a Magistrate of the District or a person exercising the powers of a Magistrate (as defined in the Code of Criminal Procedure) or of a subordinate Magistrate of the first class :

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the said Code.

## CHAPTER VI.

### MISCELLANEOUS.

Refund in case of useless or spoiled stamped paper.

45. If any person possessing any stamped paper which has been obtained in the manner allowed by this Act, or Act X of 1862 (*to consolidate and amend the law relating to stamp duties*) or any paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps, does not require the same for use, or if the paper so possessed becomes spoiled or unfit for use as hereinafter mentioned,

the Collector of the District in which the paper has been purchased may, upon application made to him within one year after such purchase, and upon delivery to him of such paper, refund the amount paid to Government for the same, whether by the applicant or any other person ;

or in case the owner of the paper so spoiled or unfit for use desires to be supplied with stamped paper of similar or equal value, the Collector may cause such paper to be delivered to him or his agent upon payment of the value of the paper on which the new stamp or stamps shall be impressed.

46. Stamped paper and paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps shall be held to be spoiled or unfit for use within the meaning of section forty-five when—

When stamped paper shall be held to be spoiled.

by accident happening to the same before any writing thereupon has been finally signed and executed, it is rendered unfit for use ;

or when, because of some error in the drawing up or copying of any writing thereon, discovered before such writing has been finally signed and executed, it is rendered of no avail ;

or when, by reason of death or refusal of the party whose signature may be necessary to effect the transaction intended by such writing, it remains incomplete and of no avail ,

or when, by refusal of any office or trust granted by a writing thereon, it has failed of the purpose intended ;

or when, by reason of failure of consideration, the transaction intended to be effected or evidenced ; by a writing thereon cannot be effected or evidenced ;

or when the transaction intended to be effected by a writing thereon has been effected by some other instrument duly stamped ;

or when, in the case of a negotiable instrument, such instrument is, by reason of non-delivery to the payee or person acting in his behalf, or other cause, never brought into use ;

or when, in the case of a bill of exchange other than a bill drawn in a set, it has not been presented for acceptance or payment.

47. Where in a case of a sale, or an exchange upon which money is paid for equality of exchange, or a lease for a premium, the full consideration-money is not truly set forth in the manner hereby directed, the purchaser, or the person paying money for equality of exchange, or the lessee (as the case may be), or his representative in interest, may sue for and recover back from the seller, or the person receiving such money, or the lessor (as the case may be), or his representative in interest, so much of the consideration-money as is not set forth as aforesaid, or the whole thereof, if no part of the same is so set forth ;

Suit where consideration is not stated.

and in such suit, notwithstanding anything hereinbefore contained, the conveyance, instrument of exchange, or lease shall be admissible in evidence.

48. Every Local Government shall frame rules for regulating the sale of stamps and stamped paper required by this Act or by Act XXVI of 1867 (to amend the law relating to stamp duties) for determining the persons by whom such sale is to be conducted, and for fixing the remuneration of such persons within the territories subject to its control ; and may from time to time alter and add to such rules.

Power to make rules for sale of stamps.

Approval and publication of rules.

Such rules, alterations, and additions shall, when approved by the Governor General of India in Council, and after publication in the local official Gazette, have the force of law.

Penalty for disobeying rules.

Any person appointed to sell such stamps and stamped paper who knowingly disobeys any such rule shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

49. When an impressed stamp is used under section five to denote the amount of duty with which any instrument is chargeable, such amount shall be denoted by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be denoted by two or more impressed stamps of which the aggregate amount is the amount so required :

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp-vendor appointed under section forty-eight, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to denote the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

Employment of several stamped papers.

50. When more stamped papers than one are used under section forty-nine for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Act to be translated, indexed and sold cheaply.

51. Every Local Government shall cause this Act and the schedules hereto annexed to be carefully translated into the principle vernacular languages of the territories subject to its control.

A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

## SCHEDULE I.

*Instruments chargeable with ad valorem stamp-duties.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY					
		If drawn angly.	If drawn in a set of two, each to be stamped.	If drawn in a set of three, each to be stamped.			
		Rs. A. P.	Rs. A. P.	Rs. A. P.			
1. Bill of exchange payable otherwise than on demand.	When the amount of the bill or note does not exceed Rs. 100.	0 1 0	0 1 0	0 1 0			
	And when the amount exceeds Rs. 200 but does not exceed Rs. 200.	0 2 0	0 1 0	0 1 0			
	And when the amount exceeds Rs. 200 but does not exceed Rs. 300.	0 3 0	0 2 0	0 1 0			
	And when the amount exceeds Rs. 300 but does not exceed Rs. 600.	0 6 0	0 3 0	0 2 0			
	And when the amount exceeds Rs. 600 but does not exceed Rs. 900.	0 9 0	0 5 0	0 3 0			
	And when the amount exceeds Rs. 900 but does not exceed Rs. 1,200.	0 12 0	0 6 0	0 4 0			
	And when the amount ex- ceeds Rs. 1,200 but does not exceed Rs. 1,500.	0 15 0	0 8 0	0 5 0			
	And when the amount exceeds Rs. 1,500 but does not exceed Rs. 2,500.	1 8 0	0 12 0	0 8 0			
	For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000.	1 8 0	0 12 0	0 8 0			
	For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000..	3 0 0	1 8 0	1 0 0			
2. Promissory note payable otherwise than on demand.	And for every Rs. 10,000 or part thereof in excess of Rs. 30,000.	6 0 0	3 0 0	2 0 0			
		If drawn singly.	If drawn in duplicate, then for each part.				
		Rs. A. P.	Rs. A. P.				
3. Policy of insurance.	When the amount insured does not exceed Rs. 1,000.	0 4 0	0 2 0				
	And for every further sum of Rs. 1,000 in- sured or for every part thereof.	0 4 0	0 2 0				

## SCHEDULE I—(continued).

*Instruments chargeable with ad valorem stamp-duties.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.		
		Rs.	A.	P.
	{ When the amount paid for such share does not exceed Rs. 100.	0	4	0
4. Transfer of a share in a company or association.	{ For every Rs. 100 of such amount or part thereof in excess of Rs. 100 up to Rs. 1,000.	0	4	0
	{ And for every Rs. 500 of the same or part thereof in excess of Rs. 1,000.	1	4	0
	{ When the amount secured does not exceed Rs. 25.	0	2	0
	{ When such amount exceeds Rs. 25 but does not exceed Rs. 50.	0	4	0
5. Bond for any specified amount, other than an administration-bond.	{ When such amount exceeds Rs. 50 but does not exceed Rs. 100.	0	8	0
	{ For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000.	0	8	0
6. Bottomry-bond ...	{ For every Rs. 500 or part thereof in excess of Rs. 1,000 up to Rs. 10,000.	2	8	0
7. Respondentia bond.	{ For every Rs. 1,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000.	2	8	0
	{ And for every Rs. 10,000 or part thereof in excess of Rs. 30,000.	12	8	0
8. Customs-bond ...	{ (a) When the amount secured does not exceed Rs. 1,000.	The stamp-duty with which a bond for such amount is chargeable (No. 5). Five rupees.		
	{ (b) When such amount exceeds Rs. 1,000.			
9. Indemnity-bond	{ (a) When the amount secured does not exceed Rs. 3,000.	The stamp-duty with which a bond for such amount is chargeable (No. 5). Sixteen rupees.		
	{ (b) When such amount exceeds Rs. 3,000 or is not expressed.			
10. Mortgage-deed, when possession of the property comprised therein is not given by the mortgage at the time of execution.	{ ... ..	The stamp-duty with which a bond for the amount secured is chargeable (No. 5.)		
11. Instrument of further charge on such property, whether by indorsement or otherwise.	{ ... ..			

## SCHEDULE I—(continued).

*Instruments chargeable with ad valorem stamp-duties.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.						
12. Bond or mortgage-deed for the due execution of an office, or to account for money received by virtue thereof.	(a) When the amount secured does not exceed Rs. 3,000. The stamp-duty with which a bond for such amount is chargeable (No. 5.) (b) When such amount exceeds Rs. 3,000 or the amount is not expressed. Sixteen rupees.						
13. Assignment of any interest secured by a bond or mortgage-deed.	(a) When the amount of such interest does not exceed Rs. 3,000. The stamp-duty with which a bond for such amount is chargeable (No. 5.) (b) In any other case ... Sixteen rupees.						
14. Settlement ...	The stamp-duty with which a bond for the amount or value of the property thereby settled is chargeable (No. 5).						
15. Conveyance ...	<table> <tr> <th data-bbox="360 656 598 719">When the amount paid for secured does not exceed Rs. 50.</th><th data-bbox="712 661 840 707">Rs. A. P.</th></tr> <tr> <td data-bbox="360 719 598 782">When such amount exceeds Rs. 50 but does not exceed Rs. 100.</td><td data-bbox="712 724 840 745">0 8 0</td></tr> <tr> <td data-bbox="360 782 598 845">For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000.</td><td data-bbox="712 729 840 750">1 0 0</td></tr> </table>	When the amount paid for secured does not exceed Rs. 50.	Rs. A. P.	When such amount exceeds Rs. 50 but does not exceed Rs. 100.	0 8 0	For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000.	1 0 0
When the amount paid for secured does not exceed Rs. 50.	Rs. A. P.						
When such amount exceeds Rs. 50 but does not exceed Rs. 100.	0 8 0						
For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000.	1 0 0						
16. Mortgage-deed, when possession of the property comprised therein is given by the mortgagee at the time of execution.	<table> <tr> <td data-bbox="360 845 598 907">For every Rs. 500 or part thereof in excess of Rs. 1,000 up to Rs. 10,000.</td><td data-bbox="712 850 840 871">1 0 0</td></tr> <tr> <td data-bbox="360 907 598 971">For every Rs. 1,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000.</td><td data-bbox="712 855 840 876">5 0 0</td></tr> <tr> <td data-bbox="360 971 598 1033">For every Rs. 10,000 or part thereof in excess of Rs. 30,000 up to Rs. 1,00,000.</td><td data-bbox="712 944 840 966">.5 0 0</td></tr> </table>	For every Rs. 500 or part thereof in excess of Rs. 1,000 up to Rs. 10,000.	1 0 0	For every Rs. 1,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000.	5 0 0	For every Rs. 10,000 or part thereof in excess of Rs. 30,000 up to Rs. 1,00,000.	.5 0 0
For every Rs. 500 or part thereof in excess of Rs. 1,000 up to Rs. 10,000.	1 0 0						
For every Rs. 1,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000.	5 0 0						
For every Rs. 10,000 or part thereof in excess of Rs. 30,000 up to Rs. 1,00,000.	.5 0 0						
17. Instrument of further charge on such property, whether by indorsement or otherwise.	<table> <tr> <td data-bbox="360 1033 598 1102">For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000.</td><td data-bbox="712 1038 840 1060">50 0 0</td></tr> <tr> <td data-bbox="360 1102 598 1169">For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000.</td><td data-bbox="712 1108 840 1130">75 0 0</td></tr> </table>	For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000.	50 0 0	For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000.	75 0 0		
For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000.	50 0 0						
For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000.	75 0 0						
18. Instrument of exchange or partition of immoveable property when money is paid for equality of exchange or partition.	<p>.....</p> <p>The Stamp-duty with which a conveyance for the amount so paid is chargeable (No. 15), in addition to the stamp-duty with which an instrument of exchange of immoveable property or a partition-deed is chargeable under Schedule II.</p>						
19. Lease.	<table> <tr> <td data-bbox="360 1387 598 1449">(a) Where the lease is expressed to be for a term of less than one year.</td><td data-bbox="615 1392 938 1476">The stamp-duty with which a Bond (No. 5) for the total amount payable under such lease is chargeable.</td></tr> <tr> <td data-bbox="360 1476 598 1580">(b) Where the lease is expressed to be for a term of not less than one year but not more than three years.</td><td data-bbox="615 1476 938 1580">The stamp-duty with which a bond for the total amount payable under such lease during the first year of the term is chargeable.</td></tr> </table>	(a) Where the lease is expressed to be for a term of less than one year.	The stamp-duty with which a Bond (No. 5) for the total amount payable under such lease is chargeable.	(b) Where the lease is expressed to be for a term of not less than one year but not more than three years.	The stamp-duty with which a bond for the total amount payable under such lease during the first year of the term is chargeable.		
(a) Where the lease is expressed to be for a term of less than one year.	The stamp-duty with which a Bond (No. 5) for the total amount payable under such lease is chargeable.						
(b) Where the lease is expressed to be for a term of not less than one year but not more than three years.	The stamp-duty with which a bond for the total amount payable under such lease during the first year of the term is chargeable.						



## SCHEDULE I—(continued).

*Instruments chargeable with ad valorem stamp-duties.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
19. Lease—(concl'd.)	(c) Where the lease is expressed to be for a term exceeding three years, or where no term is expressed. The stamp-duty with which a conveyance for the total amount payable under such lease during the first year of the term is chargeable.
	(d) Where the lease is granted in consideration of a fine or premium and where no rent is reserved. The stamp-duty with which a conveyance for the amount so paid is chargeable.
	(e) Where the lease is granted in consideration of a fine or premium and also of a rent. The stamp-duty with which a conveyance for the amount of the fine or premium is chargeable, in addition to the stamp-duty with which the lease would be chargeable in case no such fine or premium had been paid.
20. Surrender of Lease.	(a) Where the amount of stamp-duty chargeable on the lease does not exceed Rs. 16. The stamp-duty with which the lease is chargeable (No. 19).
	(b) In any other case ... Sixteen rupees.
21. Appraisement or valuation— of any property or of any interest therein or of the annual or monthly value thereof or of any repairs wanted or of the materials used or to be used in any building or of any Artificer's work.	(a) Where the amount of such appraisement or valuation does not exceed Rs. 500. Eight annas.
	(b) Where it exceeds Rs. 500. One rupee.
22. Award ...	(a) Where the amount or value of the property in dispute expressed in such award does not exceed Rs. 500. Eight annas.
	(b) Where such amount or value exceeds Rs. 500, or where no amount or value is expressed in the award. One rupee.
23. Copy, duplicate or extract, attested to be a true copy, duplicate or extract.	(a) If the duty chargeable on the original does not exceed Rs. 5, or if no duty is chargeable on the original. Eight annas.

## SCHEDULE I—continued.

*Instruments chargeable with ad valorem stamp-duties.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
23. Copy, duplicate or extract, attested to be a true copy, duplicate or extract— (concl'd.)	(b) If the duty chargeable on the original exceeds Rs. 5, but does not exceed Rs. 20. One rupee.
	(c) If such duty exceeds Rs. 20, but does not exceed Rs. 50. Two rupees.
	(d) If such duty exceeds Rs. 50. Four rupees.

*Table showing the Stamp-duty chargeable under this Schedule on any Bill of Exchange or Promissory Note, the amount of which does not exceed Rs. 2,00,000.*

		PROPER STAMP-DUTY.		
		If drawn singly.	If drawn in sets of 2, for each part of the set.	If drawn in sets of 3, for each part of the set.
When the amount exceeds.	but does not exceed.			
Rs.	Rs.	Rs. A.	RS A.	Rs. A.
....	100	0 1	0 1	0 1
100	200	0 2	0 1	0 1
200	300	0 3	0 2	0 1
300	600	0 6	0 3	0 2
600	900	0 9	0 5	0 3
900	1,200	0 12	0 6	0 4
1,200	1,500	0 15	0 8	0 5
1,500	2,500	1 8	0 12	0 8
2,500	5,000	3 0	1 8	1 0
5,000	7,500	4 8	2 4	1 8
7,500	10,000	6 0	3 0	2 0
10,000	15,000	9 0	4 8	3 0
15,000	20,000	12 0	6 0	4 0
20,000	25,000	15 0	7 8	5 0
25,000	30,000	18 0	9 0	6 0
30,000	40,000	24 0	12 0	8 0
40,000	50,000	30 0	15 0	10 0
50,000	60,000	36 0	18 0	12 0
60,000	70,000	42 0	21 0	14 0
70,000	80,000	48 0	24 0	16 0
80,000	90,000	54 0	27 0	18 0
90,000	1,00,000	60 0	30 0	20 0
1,00,000	1,10,000	66 0	33 0	22 0
1,10,000	1,20,000	72 0	36 0	24 0
1,20,000	1,30,000	78 0	39 0	26 0
1,30,000	1,40,000	84 0	42 0	28 0
1,40,000	1,50,000	90 0	45 0	30 0
1,50,000	1,60,000	96 0	48 0	32 0
1,60,000	1,70,000	102 0	51 0	34 0
1,70,000	1,80,000	108 0	54 0	36 0
1,80,000	1,90,000	114 0	57 0	38 0
1,90,000	2,00,000	120 0	60 0	40 0

## SCHEDULE I—continued.

Table showing the Stamp-duty chargeable under this Schedule on Bonds  
for any sum not exceeding Rs. 4,00,000.

When such sum exceeds but does not exceed		PROPER STAMP-DUTY.	When such sum exceeds but does not exceed		PROPER STAMP-DUTY.
Rs.	Rs.	Rs. A.	Rs.	Rs.	Rs. A.
...	25	0 2	24,000	...	87 8
25	50	0 4	25,000	...	90 0
50	100	0 8	26,000	...	92 8
100	200	1 0	27,000	...	95 0
200	300	1 8	28,000	...	97 8
300	400	2 0	29,000	...	100 0
400	500	2 8	30,000	...	112 8
500	600	3 0	40,000	...	125 0
600	700	3 8	50,000	...	137 8
700	800	4 0	60,000	...	150 0
800	900	4 8	70,000	...	162 8
900	1,000	5 0	80,000	...	175 0
1,000	1,500	7 8	90,000	...	187 8
1,500	2,000	10 0	1,00,000	...	200 0
2,000	2,500	12 8	1,10,000	...	212 8
2,500	3,000	15 0	1,20,000	...	225 0
3,000	3,500	17 8	1,30,000	...	237 8
3,500	4,000	20 0	1,40,000	...	250 0
4,000	4,500	22 8	1,50,000	...	262 8
4,500	5,000	25 0	1,60,000	...	275 0
5,000	5,500	27 8	1,70,000	...	287 8
5,500	6,000	30 0	1,80,000	...	300 0
6,000	6,500	32 8	1,90,000	...	312 8
6,500	7,000	35 0	2,00,000	...	325 0
7,000	7,500	37 8	2,10,000	...	337 8
7,500	8,000	40 0	2,20,000	...	350 0
8,000	8,500	42 8	2,30,000	...	362 8
8,500	9,000	45 0	2,40,000	...	375 0
9,000	9,500	47 8	2,50,000	...	387 8
9,500	10,000	50 0	2,60,000	...	400 0
10,000	11,000	52 8	2,70,000	...	412 8
11,000	12,000	55 0	2,80,000	...	425 0
12,000	13,000	57 8	2,90,000	...	437 8
13,000	14,000	60 0	3,00,000	...	450 0
14,000	15,000	62 8	3,10,000	...	462 8
15,000	16,000	65 0	3,20,000	...	475 0
16,000	17,000	67 8	3,30,000	...	487 8
17,000	18,000	70 0	3,40,000	...	500 0
18,000	19,000	72 8	3,50,000	...	512 8
19,000	20,000	75 0	3,60,000	...	525 0
20,000	21,000	77 8	3,70,000	...	537 8
21,000	22,000	80 0	3,80,000	...	550 0
22,000	22,000	82 8	3,90,000	...	562 8
23,000	24,000	85 0			

## SCHEDULE I—(concluded).

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs 4,00,000.

When the amount of such consideration-money exceeds		but does not exceed	PROPER STAMP-DUTY.	When the amount of such consideration-money exceeds		but does not exceed	PROPER STAMP-DUTY.
Rs.	Rs.	Rs. A.		Rs.	Rs.	Rs. A.	
...	...	50	0 0	17,000	...	18,000	140 0
50	...	100	1 0	18,000	...	19,000	145 0
100	...	200	2 0	19,000	...	20,000	150 0
200	...	300	3 0	20,000	...	21,000	155 0
300	...	400	4 0	21,000	...	22,000	160 0
400	...	500	5 0	22,000	...	23,000	165 0
500	...	600	6 0	23,000	...	24,000	170 0
600	...	700	7 0	24,000	...	25,000	175 0
700	...	800	8 0	25,000	...	26,000	180 0
800	...	900	9 0	26,000	...	27,000	185 0
900	...	1,000	10 0	27,000	...	28,000	190 0
1,000	...	1,500	15 0	28,000	...	29,000	195 0
1,500	...	2,000	20 0	29,000	...	30,000	200 0
2,000	...	2,500	25 0	30,000	...	40,000	250 0
2,500	...	3,000	30 0	40,000	...	50,000	300 0
3,000	...	3,500	35 0	50,000	...	60,000	350 0
3,500	...	4,000	40 0	60,000	...	70,000	400 0
4,000	...	4,500	45 0	70,000	...	80,000	450 0
4,500	...	5,000	50 0	80,000	...	90,000	500 0
5,000	...	5,500	55 0	90,000	...	1,00,000	550 0
5,500	...	6,000	60 0	1,00,000	...	1,20,000	625 0
6,000	...	6,500	65 0	1,20,000	...	1,40,000	700 0
6,500	...	7,000	70 0	1,40,000	...	1,60,000	775 0
7,000	...	7,500	75 0	1,60,000	...	1,80,000	850 0
7,500	...	8,000	80 0	1,80,000	...	2,00,000	925 0
8,000	...	8,500	85 0	2,00,000	...	2,20,000	1,000 0
8,500	...	9,000	90 0	2,20,000	...	2,40,000	1,075 0
9,000	...	9,500	95 0	2,40,000	...	2,60,000	1,150 0
9,500	...	10,000	100 0	2,60,000	...	2,80,000	1,225 0
10,000	...	11,000	105 0	2,80,000	...	3,00,000	1,300 0
11,000	...	12,000	110 0	3,00,000	...	3,20,000	1,375 0
12,000	...	13,000	115 0	3,20,000	...	3,40,000	1,450 0
13,000	...	14,000	120 0	3,40,000	...	3,60,000	1,525 0
14,000	...	15,000	125 0	3,60,000	...	3,80,000	1,600 0
15,000	...	16,000	130 0	3,80,000	...	4,00,000	1,675 0
16,000	...	17,000	135 0				

## SCHEDULE II.

*Instruments chargeable with fixed stamp-duties.*

DESCRIPTION OF INSTRUMENTS,	PROPER STAMP-DUTY.
1.—Bill of exchange, promissory note, cheque, or order for the payment on demand of an amount exceeding twenty rupees.	One anna.
2.—Letter of credit                      ...                      ...                      ...	
3.—Agreement or memorandum of an agreement relating to the sale of any government security, share in a company or association, or bill of exchange.	
4.—Certificate or other document purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any company or association, or proposed company or association, or to become proprietor of shares, scrip or stock in or of any such company or association.	
5.—Note or memorandum written in any book or written on a separate paper, whereby any account, debt or demand, or any part of any account, debt or demand therein specified, and amounting to twenty rupees or upwards, is expressed to have been balanced, or is acknowledged to be due.	One anna.
6.—Shipping order for or relating to the conveyance of goods on board of any vessel.	
7.—Receipt or discharge given for or upon the payment of money, or delivery of goods, in satisfaction of a debt, the amount or value of which money or goods exceeds twenty rupees.	
8.—Proxy to vote at any one meeting of— (a) Members of a company or association whose stock or funds is or are divided into shares and transferable. (b) Municipal Commissioners                      ...                      ... (c) Justices of the Peace, being a body corporate ... (d) Proprietors, members or contributors to the funds of any institution.	
9.—Bill of lading                      ...                      ...                      ...	Four annas.
10.—Dock-warrant                      ...                      ...                      ...	
11.—Any agreement or memorandum of an agreement not otherwise provided for by this Act :	Eight annas.

Provided that where two or more letters are offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any one of such letters shall be stamped as an agreement.

## SCHEDULE II—(continued).

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
12.—Notice of protest by the master of a ship ...	
13.—Power-of-Attorney to present for registration—	
(a) A single instrument ...	Eight annas.
(b) Any number of instruments required for the completion of a single transaction.	
14.—Affidavit not made for the immediate purpose of being produced in any Court.	
15.—Collateral instrument not otherwise provided for by this schedule.	
16.—Counterpart of any instrument chargeable with stamp-duty under this Act: Provided that the counterpart shall not be available unless the Collector or such other officer as he may authorize in that behalf shall certify that the proper stamp-duty on the original instrument has been paid. Such certificate shall be endorsed on the counterpart on the same being produced together with the original instrument, and on the whole being duly executed and duly stamped in other respects.	One rupee.
17.—Instrument of dissolution of partnership ...	
18.—Power of Attorney for the performance of a single act when the value of the matter to be dealt with does not exceed five hundred rupees.	
19.—Power of Attorney for the performance of a single act when the value of the matter to be dealt with exceeds five hundred rupees.	
20.—Bond or mortgage deed executed as a collateral security for the performance of any act, where such performance is secured by some instrument previously executed on stamped paper in accordance with the law in force in British India at the time of its execution.	
21.—Instrument evidencing an agreement to secure the repayment on or before the expiration of three months from the date of such instrument of a loan made upon the deposit of title-deeds or other valuable security.	Two rupees.
22.—Charter-party ...	
23.—Notarial Act ...	
24.—Protest of a bill of exchange or promissory note ...	
25.—Protest of the Master or owner of a ship ...	
26.—Instrument of co-partnership ...	
27.—Reconveyance of mortgaged property, when the original mortgage-deed has been stamped in accordance with the law in force in British India at the time of its execution.	Four rupees.

## SCHEDULE II—(concluded).

DESCRIPTION OF INSTRUMENTS	PROPER STAMP-DUTY.
28.—Composition-deed ... ..	} Eight rupees.
29.—Letter of license ... ..	
30.—Release ... ..	
31.—Instrument purporting to confer an authority to adopt.	
32.—Power-of-Attorney not otherwise provided for by this Schedule.	
33.—Articles of Association of a company ...	} Sixteen rupees.
34.—Memorandum of Association of a company ...	
35.—Appointment in execution of a power, whether of trustees, or of property, moveable or immoveable, where made by any writing not being a will.	
36.—Declaration of any use or trust of or concerning any property, moveable or immoveable, where made by any writing not being a will.	
37.—Instrument of gift of immoveable property.	
38.—Instrument of exchange of immoveable property where no money is paid or agreed to be paid for equality of exchange.	} One hundred rupees.
39.—Partition deed relating to immoveable property where no money is paid or agreed to be paid for equality of exchange.	
40.—Petition for leave to file a specification of an invention, or for the extension of the term of the exclusive privilege of making, using or selling such invention in India.	
41.—Articles of clerkship or contract whereby any person shall first become bound to serve as a clerk in order to his admission as an Attorney in any High Court.	} Five hundred rupees.

## SCHEDULE III.

*Enactments repealed by Section 2.*

No. and date of Act.	Title of Act.	Extent of repeal.
Act XIV of 1840 ...	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements by extending to the territories of the East India company, in cases governed by English law, the provisions of the Statute 9 Geo. IV, cap. XIV.	Section 8.
Act XVIII of 1856 ...	An Act relating to the administration of the public revenues in the Town of Calcutta	So much of the preamble as relates to stamp-duty, and section 2.
Act XIX of 1858 ...	An Act to provide for the authentication of stamped paper issued from the Stamp Office in Calcutta.	The whole.
Act XLI of 1858 ...	An Act to amend Regulation X of 1809, of the Bengal Code (for the collection of stamp-duties).	The whole.
Act XV of 1859 ...	An Act for granting exclusive privileges to inventors.	Section 37.
Act X of 1861 ...	An Act to consolidate and amend the law relating to stamp-duties.	Section 1 to 25 both inclusive, sections 27, 28, 29, sections 34 to 57 both inclusive, and schedule A.
Act XXVI of 1867 ...	An Act to amend the law relating to stamp-duties.	Section 5.



## APPENDIX IV-C.

### ACT X OF 1862.

[RECEIVED THE ASSENT OF HIS EXCELLENCY THE GOVERNOR-GENERAL  
ON THE 17TH APRIL, 1862 ]

*An Act to consolidate and amend the Law relating to Stamp Duties.*

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to Stamp Duties; It is enacted as follows :—

I. From the time when this Act shall come into force. Regulation XII, 1830 of the Bombay Code (*for modifying the rule provided in Clause 1, Section III, Regulation IV, 1827, for valuing lands in Civil actions*), Act XXXVI of 1860 (*to consolidate and amend the Law relating to Stamp Duties*), Act XL of 1860 (*to amend Act XXXVI of 1860*), and Act LI of 1860 (*further to amend Act XXXVI of 1860*), are repealed, except in so far as they rescind other Acts or Regulations or parts of other Acts or Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force. In respect of any such Deed, Instrument, or Writing, the provisions of the Acts and Regulations which were in force at the time such Deed, Instrument, or Writing shall have been made or executed, or such proceeding or matter shall have taken place, shall be applicable in the same manner as if this Act had not been passed.

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A annexed to this Act, there shall be payable to Government a Stamp duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

III. If any person shall draw, or, except as provided in Section XXIV of this Act, shall accept, endorse, negotiate, pay or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party to any Deed, Instrument, or other Writing engrossed on unstamped or insufficiently stamped paper or other material, which should bear a stamp of the value set forth in Schedule A annexed to this Act, every such person, so offending, shall (unless in any case in which a higher penalty is imposed by this Act) forfeit a sum not exceeding one hundred rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

IV. The Governor-General of India in Council, shall prescribe the form, size and material of the Stamps to be used, and the mode and place of impressing, affixing or denoting thereupon the value of the same under the provisions of this Act, and may from time to time alter and vary the orders which he may so issue. The orders made by the Governor-General of India in Council under this section shall be published in the Official Gazettes of the several Presidencies and places, in which such orders are to be in force.

V. The duty imposed by this Act on Receipts and Drafts or Orders for the payment of money on demand and bearing the date on which the Draft or Order is made, may be denoted by an adhesive Stamp affixed to the paper upon which such Instrument is written.

Receipt Stamps  
how to be denoted.

Adhesive Stamps  
may be used for  
transfers of shares  
of Banking Corpor-  
ations, etc.

Governor-General  
in Council may  
authorize the use of  
adhesive Stamps for  
other Deeds, etc.

VI The duty chargeable on the transfer of a share or any Banking Corporation or Joint Stock Company, which by any law applicable to such Corporation or Company can be affected by simple endorsement, may be denoted by an adhesive Stamp affixed thereto.

VII. It shall be lawful for the Governor-General of India in Council, by an order to be published in the Official Gazette, to authorize the use in the whole or in any part of the British Territories in India to be mentioned in such order, of adhesive stamps for any Deeds, Instruments or Writings required to bear a Stamp other than the Instruments mentioned in the last two preceding Sections.

VIII. In any case where an adhesive Stamp shall be used as hereinbefore authorized, the person making the Deed, Instrument, or Writing to which such Stamp is affixed, shall, before the Deed, Instrument, or Writing shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name or the initial letters of his name, or in such other manner as to show that such stamp has been made use of, and so that the same shall not admit of being used again; and if any person who shall write or give any receipt or discharge or make or sign any Draft or Order, or any other Deed, Instrument, or Writing with an adhesive Stamp thereon when an adhesive Stamp is allowed to be used, shall not *bona fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

IX. The duty imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within but payable out of the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be accepted, endorsed, transferred, paid, or otherwise negotiated within those Territories wheresoever the same may be payable; and the duty so imposed on Bills drawn out of the British Territories in India, may be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed.

Bills purporting  
to be drawn abroad  
deemed for the pur-  
pose of this Act to  
be so drawn.

X. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India shall for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same shall have been drawn within those Territories.

XI. The holder of any Bill of Exchange drawn out of the British Territories in India, and not having a proper Stamp affixed thereon as herein directed, whether the same be a single Bill or one of a set of two or more Bills, shall, before he shall present the same for acceptance or for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereto a proper adhesive Stamp for denoting the duty by this Act charged on the amount of such Bill when drawn singly, and the person who shall present such Bill for acceptance or payment, or who shall endorse, transfer, or in any manner negotiate such Bill, shall, before he shall deliver

The holder of a  
Bill drawn out of  
the British Terri-  
tory to affix an adhe-  
sive Stamp thereon  
before negotiating  
it.

the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the Bill as his endorsement his name or the name of his firm and the date of the day and year on which he shall so write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such manner as to show that the Stamp has been made use of, and so that the same shall not admit of being used again; and if any person shall present for acceptance or for payment, or shall accept, pay, or endorse, transfer, or in any manner

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

as aforesaid either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereto and cancelled in the manner thereby directed.

Penalty for drawing Bills purporting to be drawn in a set of two or more and not drawing the whole number of the set.

negotiate any such Bill as aforesaid, whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person, who ought as directed by this Act to cancel such stamp in manner aforesaid, shall refuse or neglect so to do, every such person so offending in any such case, shall be liable to the penalty prescribed in Section III of this Act; and no person who shall take or receive from any other person any such Bill

XII. If any person shall, within the British Territories in India, draw any Bill of Exchange, purporting to be drawn in a set of two or more, and shall not draw at the same time on paper duly stamped as required by this Act the whole number of Bills of which such Bill purports the set consist, he shall forfeit a sum not exceeding one thousand Rupees.

XIII. If any person, in order to avoid the payment of duty prescribed by Schedule A annexed to this Act, shall make or draw any Bill of Exchange bearing a date subsequent to the date on which such Bill is actually made or drawn, or if any person, knowing that such Bill has been so post-dated, shall take or receive such Bill, or shall accept, pay, endorse, transfer, or in any manner negotiate the same, every such person so offending shall forfeit a sum not exceeding five hundred Rupees.

XIV. Except as otherwise provided by this Act no Deed, Instrument, or Writing, for which any Duty shall be payable under Section II of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil Proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon, in any such Court, or by any public Officer, or shall be registered in any public Officer or authenticated by any public Officer, unless such Deed, Instrument, or Writing be upon a Stamp, or when an adhesive Stamp shall be allowed to be used, shall bear a Stamp of a value not less than that indicated to be proper for it by the Schedule A annexed to this Act: Provided that every Deed, Instrument, or Writing liable to Stamp Duty, shall be admitted as evidence in any Criminal Proceeding, although it may not have the Stamp required by this Act impressed thereon or affixed thereto.

XV. Clause 1.—If any Deed, Instrument, or Writing requiring to be stamped under Section II of this Act, shall have been executed on paper not bearing the proper Stamp, the Collector of Stamp Revenue of the District, if satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp did not arise from any intention to evade payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing or otherwise to defraud the Government, may, on payment

Deed inadvertently executed on paper not bearing proper Stamp may be duly stamped on payment of proper Stamp Duty and penalty, if brought to the Collector within six weeks.

of the proper Stamp Duty, or if the Deed, Instrument, or Writing shall be insufficiently stamped, on payment of such sum as with the amount of the Stamp upon such Deed, Instrument, or Writing, shall suffice to complete the prescribed amount, and, as a penalty, double the amount required to make up the same, direct that such Deed, Instrument, or Writing be duly stamped; provided that such Deed, Instrument, or Writing be presented to such Collector for the purpose of having the proper stamp affixed to or impressed upon it within six weeks from the date of its execution. If the Collector be satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp arose solely from urgent necessity or unavoidable accident, he may remit the penalty prescribed by this Section.

Remission of penalty.

*Clause 2.*—If any Deed, Instrument, or Writing requiring to be stamped under Section II of this Act, which shall have been executed on unstamped or insufficiently stamped paper, shall be brought to such Collector for the purpose of being properly stamped after six weeks from the date of its execution, but within four months from that date, such Collector, if satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp, did not arise from any intention to evade the payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing or otherwise to defraud the Government, may, on payment of a sum sufficient to make up the proper amount of Stamp Duty, and as a penalty treble the amount required to make up the same, direct that the requisite Stamp be impressed on such Deed, Instrument, or Writing; or if such Deed, Instrument, or Writing shall not be brought to such Collector until after the expiration of four months from the date of its execution, the requisite Stamp may be ordered to be impressed on payment of the sum required to make up the proper amount of Stamp Duty, and as a penalty twenty times the amount required to make up the same.

Penalty if brought after four months.

Collector to determine whether, on payment of penalty, a Deed, etc., executed on unstamped or insufficiently stamped paper shall be stamped.

Collector to decide the proper amount of Stamp Duty to be impressed upon any Deed, etc., under this Section.

*Clause 3.*—It shall be the duty of the Collector of the Stamp Revenue of the District, to determine whether the requisite Stamp shall be impressed on any Deed, Instrument, or Writing falling under the last two preceding Clauses, which shall have been executed on unstamped or insufficiently stamped paper.

*Clause 4.*—Whenever a doubt shall arise respecting the proper amount of the Stamp to be impressed under this Section on any Deed, Instrument, or Writing, the Collector of Stamp Revenue of the District shall determine the amount of Stamp to be impressed upon such Deed, Instrument or Writing.

*Clause 5.*—If in any case falling within this Section in which it shall appear to the Board of Revenue or the Chief Controlling Revenue Authority that a Collector of Stamp Revenue has directed an improper stamp to be impressed upon any Deed, Instrument, or Writing, such Board or other Authority as aforesaid, may, if the Stamp ordered by the Collector to be impressed upon such Deed, Instrument, or Writing shall not have already been impressed thereupon, order the proper Stamp to be impressed upon such Deed, Instrument, or Writing upon payment of the proper amount of Stamp Duty and the penalty to which the holder of such Deed, Instrument, or Writing is liable under Clause 1 or Clause 2 of this Section.

Board of Revenue, etc., may in certain cases order the proper Stamp to be impressed.

Mitigation or return of penalty under this section.

The Stamp impressed under preceding Section to be taken to be the proper Stamp.

In cases falling under Section XV, Civil Courts may receive in evidence unstamped or insufficiently stamped Deeds, on payment of the proper Stamp Duty and penalty.

*Clause 2.*—An entry of such payment setting forth the amount thereof shall be

Procedure on payment under preceding Clause.

made in a book to be kept by the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and shall be signed by the Court. The Court shall, at the end of every month, make a return to the Collector of the Stamp Revenue of the District, of the money (if any) which it has so received, distinguishing between the sums received by way of penalty and the sums received by way of Duty, stating the number and title of the suit, and the name of the party from whom such money was received, and the date, if any, and description of the document, for the purpose of identifying the same; and the Court shall pay over the money so received to such Collector, or to such person as he may appoint to receive the same. Such Collector, or other proper Authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinafter mentioned, cause to be stamped thereon with a Stamp of the amount paid, into Court on account of such Duty. The provisions contained in Clause 6, Section XV of this Act as to the mitigation or payment of penalties paid to the Collector shall be applicable to penalties paid into Court under this Section.

No unstamped or insufficiently stamped Deed, etc., to be stamped except as aforesaid.

*Clause 6.*—The Board of Revenue or other Chief Controlling Revenue Authority may, upon petition order any penalty imposed under this Section to be mitigated, and if paid, may order the whole or any part of it to be returned.

XVI.—The Stamp which shall be impressed under the last preceding Section, shall be taken in any Court of Justice to be the proper Stamp required by this Act for the Deed, Instrument, or Writing on which the same is impressed.

XVII.—*Clause 1.*—In any case in which a Stamp might be impressed under Section XV of this Act, a Civil Court may receive in evidence any Deed, Instrument, or Writing not bearing the Stamp prescribed by Schedule A annexed to this Act on payment into Court of the proper amount of Stamp Duty to be determined by the Court, whose decision on the point shall be final together with the penalty required by the said Section.

XVIII. No Deed, Instrument, or Writing executed on unstamped or insufficiently stamped paper, shall be stamped at any time after the execution thereof, except as hereinbefore provided.

XIX. When in any case other than the cases provided for in Sections XV and

Procedure (in cases other than those provided for in Sections XV and XVII) for determining the proper amount of Stamp Duty to be impressed on any Deed.

XVII of this Act, any person shall entertain any doubt respecting the proper amount of Stamp Duty for any Deed, Instrument, or Writing, he may apply to the Board of Revenue or the Chief Controlling Revenue Authority, either directly or through the Collector of Stamp Revenue of the District, for an adjudication with a view to remove such doubt, and shall at the same time pay a fee of ten Rupees, and thereupon such Board or other Authority as aforesaid shall determine the amount of stamp which such Deed, Instrument, or Writing should bear, and on payment thereof, shall cause such Deed, Instrument, or Writing to be impressed with such Stamp, and an additional Stamp denoting that such adjudication fee has been paid. A Deed, Instrument, or Writing so stamped shall be received in evidence as properly stamped in any Court of Justice.

Cost of transmitting Deed, etc., to be stamped, by whom to be paid.

XX. The cost of transmitting by post any Deed, Instrument, or Writing required to be stamped under any of the foregoing Sections of this Act, and the cost of registering the same at the Post Office for transmission, shall, in all cases, be borne by the party applying to have such Deed, Instrument, or Writing stamped.

XXI. The Government shall not be responsible for any loss or damage which shall occur in respect of any Deed, Instrument, or Writing entrusted to the Collector of Stamp Revenue of the District for the purpose of being stamped, and no person employed by the Government in the Stamp Department, shall be responsible for any such loss or damage, unless such person shall wilfully, fraudulently, or by gross negligence cause such loss or damage.

Provisions of Sections XV and XVI not to extend to Bills of Exchange, etc.

XXII. The provisions of Sections XV and XVII of this Act shall not extend to Bills of Exchange or other forms of Orders for money, or to Receipts for money.

Exemption from further penalties than those prescribed in Section XV or XVII.

XXIII. The payment of any penalty under Section XV or Section XVII of this Act shall exempt the person paying the same from any further penalty for any such omission or neglect as is therein described, and if any other such penalty shall already have been imposed, the same shall be taken so far as it goes in reduction of any penalty under the said Sections.

XXIV. When any Draft or Order for the payment of money on demand chargeable with the Stamp duty of one anna shall come to the hand of any person unstamped, it shall be lawful for such person to affix thereto the necessary adhesive Stamp and to cancel the same in the manner required by this Act, and upon so doing to charge the duty against the person who ought to have paid the same, or to deduct such duty from the sum so directed to be paid, and such Draft or Order shall, so far as relates to the Stamp Duty chargeable thereon, be good and valid; but this shall not relieve any person from the liability to the penalty which he may have incurred by issuing the said Draft or Order unstamped.

Penalty for executing or receiving only one number of a policy of Marine Insurance purporting to be drawn in a set of two.

XXV. If any person shall, within the British Territories in India, execute any Policy of Marine Insurance, purporting to be drawn in a set of two, and shall not at the same time execute on paper duly stamped as required by this Act, the two numbers of which such Policy purports the set to consist, every such person so offending shall forfeit a sum not exceeding one thousand Rupees.

XXVI. In modification of so much of Section 98 of the Code of Civil Procedure as declares that on the application of the plaintiff reciting the substance of any agreement, compromise, or satisfaction, in accordance with which a suit is adjusted and disposed of, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, authorizing him to receive back from the Collector the full amount of Stamp Duty paid on the plaint, if the application shall have been presented before the settlement of issues or half the amount if presented at any time after the settlement

of issues and before any witness has been examined,—it is enacted that if such application shall have been presented before the suit is called up for the settlement of issues, or in suits in which the summons to the defendant shall be for the final disposal of the suit, as directed in Section 41 of the said Code, and in Section 9 of Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts established by Royal Charter*) before the hearing of the suit has commenced, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, authorizing him to receive back from the Collector half the amount of Stamp Duty paid on the plaint: Provided that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass, on which process of execution can be taken out, or in any appealed suit.

**XXVII.** No larger sum shall be recoverable in any Court of Justice by reason, of any Deed, Instrument, or Writing, for which an optional Stamp is indicated to be proper by the Schedule A annexed to this Act than the largest sum for which, if specially stated in a Deed, Instrument, or Writing of the same denomination, the Stamp actually used under the option so given would be of sufficient value. And no such Deed, Instrument or Writing shall be held by any Court of Justice, to be valid in respect to any sum of money larger than that for which the Stamp on the said Deed, Instrument or Writing would be sufficient.

What sum recoverable under a Writing bearing an optional Stamp.

**XXVIII.** No Justice of the Peace or any Officer, before whom an affidavit not made for the immediate purpose of being filed, read, or used in any Court of Justice, may be taken, shall receive or attest such affidavit, unless it be written on a Stamp of not less than the value prescribed by Schedule A annexed to this Act.

Stamp on certain affidavit.

**XXIX.** Every person receiving payment of any sum of money, the receipt for which under this Act requires a stamp, shall (if required) give a receipt, bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the Stamp of any Bill of Exchange, Letter of Credit Draft, Cheque on a Banker or other person, Promissory Note, or Other Order or Obligation for the payment of money made or drawn in the British Territories in India (not being a Bond, Instrument, or Writing bearing the attestation of one or more witnesses) shall be borne by the person making or drawing the same.

Expense of providing Receipts, Stamps, etc.

**XXX.** Except in any Court of Justice established by Royal Charter, or in any Court of Small Causes established within the local limits of the jurisdiction of any such Court, no Instrument, or Writing of any of the kinds specified as requiring Stamps in the Schedule B annexed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Government Office, or shall be received or furnished by any public officer, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated to be proper for it by the said Schedule B. Provided that nothing in this Act shall be held to repeal any special provision in the Code of Civil Procedure or in any other Act or Regulation for the use of plain or unstamped paper in any judicial proceeding, unless such provision shall be expressly repealed by this Act.

Stamp Duties under Schedule B.

Proviso.

**XXXI.** Every provision contained in the Schedules annexed to this Act, shall be of the same force as if it were contained in the body of the Act.

Effect of provision contained in the Schedules.

XXXII. All questions relating to the valuation of claims for the purpose of determining the amount of Stamp Duty chargeable under schedule B annexed to this Act on any petition of plaint or appeal, shall be decided by the Court in which such petition of plaint or appeal is filed, subject to any appeal to which the orders of such Court are open.

XXXIII.—[*Repealed by Act XVIII, 1965, and another Section enacted in lieu.*]

Appointment of Officers for collection of Stamp Revenue.

XXXIV. The local Government shall appoint Officers for the collection of the Stamp Revenue, and shall assign Districts to such Officers.

XXXV. All orders passed by the Collectors of Stamp Revenue shall be open to revision by the Board of Revenue or other Chief Controlling Revenue Authority, except orders passed under Section XV of this Act when the Collector shall allow a Deed, Instrument, or writing not bearing the proper Stamp to have the proper Stamp impressed upon it, and orders passed under Section L of this Act, when the Collector shall allow a new Stamp or the value in money to be given in lieu of any Stamp which shall have been damaged, soiled, or rendered unfit for use. All such orders shall be final and shall not be open to revision.

Orders of Collectors of Stamp Revenue open to revision by Board of Revenue, etc.

XXXVI. The local Government may license or cause to be licensed Vendors of Stamps, and may direct how and under what conditions Stamps may be supplied to such Vendors for sale, and what accounts of such stamps shall be kept by them. The license may be for any time, and may at any time be revoked by the authority granting the same.

Licensed Stamp Vendors.

Licenses and Schedules to be stuck up in Stamp Vendor's shop.

XXXVII. Every Vendor of Stamps shall at all times have his license, together within the Schedules annexed to this Act, in the Vernacular language of the District, stuck up in a conspicuous situation in the place where he sells the Stamps, on pain of a fine not exceeding fifty Rupees.

XXXVIII. Every Vendor of Stamps shall write on the back of every Stamp which he sells, except adhesive Stamps and Stamps used for Receipts, or for Bills of Exchange, Promissory Notes, Drafts, or other Orders for money. Agreements for loans falling under Article 13 of the Schedule A annexed to this Act, or Bills of Lading the date of sale the name of the person to whom the Stamp is issued, and his own ordinary signature on pain of a fine not exceeding one hundred Rupees.

Endorsements of Stamps by Vendors.

XXXIX. Any Vendor who shall knowingly write a false name or date on the back of any Stamp which he is required to endorse under the last preceding Section, shall be punished by a fine not exceeding five hundred Rupees, or imprisonment with or without hard labour not exceeding three months, or both.

Penalty for Vendor writing a false name or date.

XL. Every Vendor of Stamps shall, without delay, deliver any Stamp which he has in his possession for sale, on demand by any person tendering the value in any currency which the Vendor is duly authorized to receive in payment for Stamps, on pain of a fine not exceeding one hundred rupees.

Delay by Stamp Vendor in issuing Stamps.

Stamp Vendor accepting any consideration other than that authorized.

XLI. Any Vendor who demands or accepts for any Stamp any consideration other than the value thereof in such currency as he is duly authorized to receive in payment for Stamps, shall be punished by a fine not exceeding one hundred Rupees.



**XLII.** Any Vendor who demands or accepts for any Stamp any consideration exceeding the value of such Stamp, shall be punished by imprisonment with or without hard labour for a period not exceeding six months, or by a fine not exceeding ten times the value so demanded or accepted, or by both, and it shall be in the discretion of the Court or Officer passing the sentence to direct the value of the excess to be refunded out of such fine to any person from whom such excessive consideration may have been accepted.

**XLIII.** Any Vendor or other person who, after any period which may have been appointed by the Governor-General of India in Council for the commencement of the use of new Stamps, sells any old Stamps shall be punishable by a fine not exceeding one hundred Rupees.

**XLIV.** If any Vendor refuse or omit to render any account required from him, or to permit the Collector of the Stamp Revenue of the District or any officer duly authorized by such Collector to inspect his accounts or to examine the store of Stamps in his possession, it shall be lawful for such Collector to proceed against such Vendor for the recovery of the value of the balance of Stamps standing against him in the Books of such Collector, or for the recovery of the balance of money standing against the Vendor in the said books, in the same manner as Collectors of Land Revenue are authorized by law to proceed against persons owing revenue or rent to Government.

**XLV.** Any Vendor who, upon the determination, revocation, or resignation of his license, does not, within such reasonable time as shall have been prescribed by the Collector of the Stamp Revenue of the District, make over to some Officer duly authorized to receive the same, an account of the Stamps entrusted to him for sale on the part of Government, together with any such Stamps remaining, or which ought to be remaining for sale in his hands, and any balance of cash which may be due from him to Government in respect of such Stamps, shall be liable to a fine not exceeding five hundred Rupees; provided always that no Vendor shall, by the payment of such fine, be exempt from any punishment provided by law for any embezzlement of which he shall have been guilty or from such proceeding as by the last preceding Section the Collector of the Stamp Revenue of the District is empowered to adopt for the recovery of the value of any Stamps or balance of cash remaining in the hands of or standing against such Vendor.

**XLVI.** Upon the death of any Vendor, the person in possession of such Vendor's effects shall, upon demand being made by the Collector of Stamp Revenue of the District or any Officer duly authorized by him, make over within a reasonable time to such Collector or Officer as aforesaid any Stamps which the deceased Vendor shall have received for sale on the part of Government and shall not have sold at the time of his death, and any accounts kept by such deceased Vendor in respect to such Stamps, of which Stamps and accounts such person as aforesaid may have the possession, or be able to obtain the possession, on pain of a fine not exceeding five hundred Rupees.

**XLVII.** The Collector of Stamp Revenue of the District may call upon the surety of a Vendor of Stamps, to make good the value of the balance of Stamps standing against such Vendor in the Books of such Collector, or the balance of money standing against such Vendor in the books of such Collector, and on his failure to do so, may proceed against such surety for the recovery of the value of the balance of

Stamps, or for the recovery of the balance of money as aforesaid, in the same manner as Collectors of Land Revenue are authorized by Law to proceed against the surety of a person owing revenue or rent to Government.

**XLVIII.** No person not being a licensed Vendor of Stamps duly appointed, shall sell any Stamp unless it has been in an authorized manner obtained for use and not for sale, under pain of fine not exceeding one hundred Rupees; provided that nothing in this Section shall be held to apply to any adhesive Stamp, or to any Stamp used for a Receipt, Bill of Exchange, Promissory Note, or other Order for money, or to an Agreement for a loan falling under Article 13 of the Schedule A annexed to this Act, or to a Bill of Lading.

**XLIX.** If any licensed Vendor die, or if his license expire or be revoked, the Stamps in the possession of such Vendor of which, after deducting the percentage or discount allowed, he has paid the amount to Government, may within three months from the date of the death of such Vendor, or from the date on which his license expired or was revoked, as the case may be, be brought to the Collector of Stamp Revenue of the District who shall repay such amount; Provided that such Stamps were actually in the possession of such Vendor for the purpose of sale, and were procured by him from the Collector of Stamp Revenue of the District.

**L. Clause 1.** If any Stamp Paper, after having been obtained in the manner allowed by this Act, shall have become damaged, spoiled, or unfit for use either by any accident, happening to the same, or because of some error in the drawing up or copying of any Deed, Instrument, or Writing thereupon, which being discovered before such Deed, Instrument, or Writing shall be finally signed and executed, renders the same of no avail; or when by reason of the death or refusal of the party whose signature may be necessary to effect the transaction intended by such Deed, Instrument, or Writing it remains incomplete and of no avail; or when by the refusal of any Office or trust that may be granted by a Deed, Instrument, or Writing it has failed of the purpose intended; or if any Deed, Instrument or Writing duly stamped shall not have been finally executed by reason of any accident having happened to the same or because of some error in the drawing up or copying thereof having been discovered the same is rendered of no avail; or if by reason of failure of consideration, the transaction intended by such Deed, Instrument, or Writing cannot be effected, or such transaction has been effected by some other Deed, Instrument or Writing duly stamped, or in the case of a Promissory Note, Bill of Exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same is never brought to use, and in the case of a Bill of Exchange other than a Bill drawn in sets as provided in this Act, if it shall not have been presented for acceptance; in all such cases, it shall be competent to the Collector of the Stamp Revenue of the District, upon deliver being made of such Stamped paper, so damaged, spoiled or rendered unfit for use, to cause a similar Stamp or Stamps of equal value to be delivered to the owner of such Stamp paper so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the Paper, on which the new Stamp shall be impressed. The provisions of this Section shall not extend to any Bill of Exchange drawn in a set, if any one of such set shall have been delivered to the payee, or to any adhesive Stamp.

**Clause 2.**—The owner of any Stamp which shall be damaged, spoiled or rendered unfit for use as aforesaid shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased the same, and if such Collector be of opinion that the application ought to be complied with, he shall deliver or cause to be delivered

subject to the provisions of this Act, to the party or his representative, a Stamp similar or of equal value to that which has been damaged, spoiled, or rendered unfit for use; Provided that the application be made within six months of the period when the Stamp shall have become damaged, spoiled, or rendered unfit for use,

Collector may repay the amount of damaged Stamps, instead of giving new Stamps.

*Clause 3.*—In any case in which under this Section a Collector may give a new Stamp in lieu of a Stamp damaged, spoiled or rendered unfit for use, he may, if he shall see fit, repay to the party making the application the amount of such Stamp in money.

*LI. Clause 1.*—From the time when this Act shall come into force in case of the

Conveyance to state truly the amount of the purchase money,

sale of any land, annuity, or other property, real or personal, moveable, or immoveable, not being a share of any Banking Corporation or Joint Stock Company when the same is transferred by simple endorsement, or of any right, title, interest, or claim in any such property when a Duty is imposed by this Act on

the conveyance thereof; the full purchase or consideration money directly or indirectly paid, or secured or agreed to be paid for the same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing, whereby the property sold shall be conveyed to or vested in the purchaser or in any other person. Provided that if the Deed, Instrument, or Writing be framed in accordance with a form prescribed by any Act or Regulation in force, and shall not contain such purchase or consideration money, then such purchase or consideration money shall be truly expressed and set forth in words at the foot of such Deed, Instrument, or Writing. If the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred Rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for such Deed, Instrument, or Writing in respect of the full purchase or consideration money if the same had been duly expressed in such Deed, Instrument, or Writing, beyond the amount of Duty actually paid for the same.

Penalty of person employed to prepare a conveyance inserts a less sum than the true purchase money.

*Clause 2.*—If any person shall knowingly and wilfully insert or set forth in any such Deed, Instrument, or Writing, any less amount than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, he shall incur the penalties prescribed in the preceding Clause of this Section.

Prosecution only to be by Collector of Stamp Revenue, etc.

*LII.* No person shall be proceeded against for any offence affecting the Public Revenue under this Act, except at the suit or prosecution of the Collector of the Stamp Revenue of the District or other officer specially authorized by the Government in that behalf.

Offences cognizable by Magistrate or Justice of the Peace.

*LIII.* Every offence punishable by this Act may be tried by any Officer exercising the powers of a Magistrate or of a subordinate Magistrate of the First Class as defined in the Code of Criminal Procedure or by a Justice of the Peace.

*LIV.* If any person sentenced to a fine under the provisions of this Act shall not

Imprisonment in case of non-payment of fine.

pay the fine to which he shall be sentenced, it shall be lawful for the Magistrate or Justice of the peace who passed the sentence to issue his warrant to levy the amount by distress and sale of the goods and chattels of the party fined, or to sentence the offender to imprisonment until the payment of the fine, or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

Rewards to informers.

LV. A share not exceeding one-half of every fine imposed and recovered under this Act may be awarded, by the Magistrate or Justice of the Peace imposing the fine, to the informer.

Interpretation,"  
 "Stamp,"  
 "Value"  
 "Bill of Exchange."  
 "Deed,"  
 "Paper,"  
 "Sheet,"  
 "Number,"  
 "Gender,"  
 "Month,"  
 "British Territories in India."

LVI. Throughout this Act and the Schedules annexed to it, the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; and by the "value" of a Stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other material. The term "Bill of Exchange" includes a Hoondes or any other Instrument of a like nature. The word "Deed" includes every instrument of the nature of a Deed whether under a Seal or not. The word "Paper" includes Parchment, Vellum, or other similar material. The word "Sheet" denotes a stamped paper or other material of the size prescribed by the Governor-General-in-Council under Section IV. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "Month" means a Calendar month, the words "British Territories in India" denote the Territories vested in Her Majesty by the Statutes 21 and 22 Vic., C. 106, entitled "An Act for the better Government of India."

Commencement of Act.

LVII. This Act shall come into force on the 1st day of June 1862.

## SCHEDULE A.

Containing a specification of the Deeds, Instruments, and Writings which require to be stamped under this Act, and of the proper Stamps for such Deeds, Instruments, and Writings.

### PROPER STAMPS.

1. Agreement, or any Minute or Memorandum of an Agreement, not being of the nature of a Bond or other Obligation for the payment of money, or of a conveyance, or of a Deed of Mortgage, Gift, or Dower, and not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the parties. 1 Rupee.

NOTE.—If two or more letters are offered in evidence to prove an Agreement between the parties who shall have written such letters, it will be sufficient if any one of such letters be stamped as an Agreement.

If the Agreement, or Minute or Memorandum be of the nature of a Bond or other Obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, Gift or Dower.

The same Stamp as prescribed by this Schedule for such Instrument.

2. Agreement for an annual or periodical payment not otherwise charged for in this Schedule.

The same Stamp as for a Bond for the amount of ten years' payment, or of the total sum secured if less,

## SCHEDULE A—(Continued).

## PROPER STAMPS.

3. Agreement, or Minute or Memorandum for a lease, or of the terms and conditions on which any land, house, or other real property is let, held, or occupied. The same Stamp as for a Lease for the same property on the same terms and conditions.

Provided that any lease afterwards made of the same land, house, or other real property in pursuance of such Agreement, Minute or Memorandum, shall be chargeable with a Stamp Duty of eight Annas only, to be denoted by a Stamp, which shall be affixed to such lease by the Collector of Stamp Revenue of the District upon the production of the Agreement, Minute, or Memorandum bearing the proper Stamp, and not otherwise.

4. Agreement to cultivate, manufacture, produce, provide, or deliver any article in consideration of advance made—

	RS.	A.
If the amount advanced do not exceed 50 Rs. ...	0	1
If it exceed 50 Rs. but do not exceed 100 Rs. ...	0	2
If it exceed 100 Rs. but do not exceed 200 Rs. ..	0	4
If it exceed 200 Rs. but do not exceed 500 Rs. ...	0	8
If it exceed 500 Rs. ... ..	1	0

5. Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share in any Joint Stock Company, or Bill of Exchange to the amount or value of 100 Rupees or upwards. 1 Anna.

## EXEMPTIONS.

Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share in any Joint Stock Company, or Bill of Exchange, if not of the amount or value of 100 Rupees.

Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale of any goods or merchandize.

6. Agreement for the hire of a Steamer for tugging a vessel, if for a single trip within the limits of the Port, 8 Annas.  
Beyond the limits of the Port, 1 Rupee.

7. Agreement for service or personal employment by the month or for any longer period—

If the amount of monthly salary or wages secured by such Agreement do not exceed in value 5 Rs. 1 Anna.

If the amount so secured exceed 5 Rs. but do not exceed 20 Rs. 4 Annas.

If the amount so secured exceed 20 Rs. but do not exceed 50 Rs. 8 Annas.

In any other case ... .. 1 Rupee.

## EXEMPTION.

Agreement for service or personal employment for any period less than a month.

8. Affidavit or solemn declaration not made for the immediate purpose of being filed, read, or used in any Court of Justice, per sheet. 1 Rupee.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

9. Assignment, if not of the nature specified under the head of Conveyance or Settlement, nor especially exempted—

In any case where the Assignment is of any interest secured by an original Deed, Instrument, or Writing on a Stamp of a value less than eight rupees. The same Stamp as the original Deed.

In any other case ... 8 Rupees.

## EXEMPTION.

Transfer by mere endorsement of a Bill of Exchange, Promissory Note, or Nother negotiable Instrument; or of a Bill of Lading; and transfer by Assignment of a Policy of Insurance.

10. Bill of Exchange, Letter of Credit, Draft, Cheque, Promissory Note, Hoondee, or other Order or Obligation for the payment of money not being a Bond, Instrument, or Writing bearing the attestation of one or more witnesses—

If payable on demand and bearing the date on which it is made, and if the sum payable exceed twenty rupees. 1 Anna.

	If drawn singly.	If drawn in a set of two, each to be stamped.	If drawn in a set of three, each to be stamped.
If payable at sight or at any period not exceeding one year after date or sight—	Rs. A.	Rs. A.	Rs. A.

When not exceeding 100 Rs. ...	0	1	0	1	0	1
When exceeding 100 Rs. and not exceeding 250 Rs.	0	3	0	2	0	1
When exceeding 250 Rs. and not exceeding 500 Rs.	0	6	0	3	0	2
When exceeding 500 Rs. and not exceeding 1,000 Rs.	0	12	0	6	0	4
When exceeding 1,000 Rs. and not exceeding 2,500 Rs.	1	8	0	12	0	8
When exceeding 2,500 Rs. and not exceeding 5,000 Rs.	3	0	1	8	1	10
When exceeding 5,000 Rs. and not exceeding 10,000 Rs.	6	0	3	0	2	0
When exceeding 10,000 Rs. and not exceeding 20,000 Rs.	12	0	6	0	4	0
When exceeding 20,000 Rs. and not exceeding 30,000 Rs.	18	0	9	0	6	0

And for every further 10,000 Rs. or for any part of every further 10,000 Rs. if drawn singly, 6 Rs. in addition; if drawn in a set of two, each to be stamped, 3 Rs. in addition; if drawn in a set of three, each to be stamped, 2 Rs. in addition.

If bearing no date, the same Stamp as if payable at sight, unless any date or period of payment be specified, in which case the same Stamp as prescribed by Article 12 for a Bond of the same amount. If drawn in a set of more than three, each of the set in excess of three to be stamped as required for each one of a set drawn in a set of three.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

If not drawn singly, each of the set shall state that it is drawn in a set of two or three and shall denote on the face thereof that it is the first, second, or third of the set as the case may be.

If payable at a period exceeding one year after date or sight.

The same Stamp as prescribed by Article 12 for a Bond for the payment of the same amount, at 4 annas for a single bill, acknowledgment or instrument for each part of every set of the same.

11. Bill of lading of or for any goods to be exported.

Bill of Sale.—See Conveyance and Mortgage.

12. Bond or other Obligation for the payment either absolutely or conditionally of any definite or certain sum of money, not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule—

	Rs.	A.
If for any sum not exceeding 25 Rs.	0	2
Above Rs. 25 and not exceeding Rs. 50	0	4
" 50 " 100	0	8
" 100 " 200	1	0
" 200 " 300	2	0
" 300 " 500	4	0
" 500 " 700	5	0
" 700 " 1,000	6	0
" 1,000 " 2,000	10	0
" 2,000 " 3,000	15	0
" 3,000 " 5,000	25	0
" 5,000 " 10,000	35	0
" 10,000 " 20,000	60	0
" 20,000 " 40,000	100	0
Above 40,000 Rs. and not exceeding 60,000 Rs. ...	125	0
Above 60,000 Rs. and not exceeding 80,000 Rs. ...	150	0
Above 80,000 Rs. and not exceeding 1,00,000 Rs. ...	200	0
And for every further part of 1,00,000 Rs. ...	100	0
And for every further 1,00,000 Rs. ...	200	0

13. Bond or Agreement for a loan made upon the deposit of Title-deeds or a Note or other security of the Government of India, Share, or Debenture of any Railway or Joint Stock Company, Bill of Lading, Warrant for goods deposited in a bonded or other warehouse, or assignment of any goods, with or without a deposit of the acceptance or Promissory Note of the borrower; Provided that no such Agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note, or in any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case the period of such loan shall not exceed one month.

If such loan is for a period exceeding one month and not exceeding two months.

2 0

If such loan is for a period exceeding two months and not exceeding three months.

4 0

If such loan is for a period exceeding three months...

The same Stamp as prescribed by Article 12 for a Bond of the same amount.

## SCHEDULE A—(Continued),

## PROPER STAMPS.

14. Bond or other Obligation concerning responsibility and bottomry. The same Stamp as prescribed by Article 12 for a Bond for the like amount.
15. Bond or other Obligation given as security for the transfer of any Government Security or Stock of any public Company, or for the delivery or accounting for any matter or thing capable of being valued. The same Stamp as prescribed by Article 12 for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of thing to be delivered or transferred.
16. Bond or other Obligation for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond or other Obligation, whether for a fixed or for an indefinite period. The same Stamp as prescribed by Article 12 for a Bond for the payment of a sum equal to ten times the yearly payment, or of the total sum secured, if less.
17. Bond or other Obligation when the amount of the money to be secured is not specified. An optional Stamp—See Section XXVII of the Act.
- When the amount is limited to a certain sum. The same Stamp as prescribed by Article 12 for a Bond for the payment of such limited sum.
18. Bond or other Obligation for the due execution of an office or work, and any other Bond not otherwise specially provided for or expressly exempted from the payment of Stamp Duty by this Schedule. An optional Stamp—See Section XXVII of the Act.
19. Bond or other Obligation taken as collateral security with some Deed or Instrument executed on the Stamp prescribed for a Conveyance or money Bond, or as security for the performance of any other Contract, Covenant or Agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand. The same Stamp as the Deed, Instrument, Contract, Covenant, or Agreement, if of value not exceeding eight Rupees, otherwise a Stamp of eight Rupees.
20. Certificate, that is to say, a document denoting or intended to denote the right or title of the holder thereof, or any person, to any Share or Shares or Scrip in any Joint Stock or other Company, or proposed or intended Company; or any Certificate declaring or entitling the holder thereof, or any person, to be or become the proprietor of a Share or Shares or Scrip of or in any such Company. 1 Anna.
21. Charter-party, or any Agreement or Contract for the Charter or hiring of any sea-going Ship or Vessel. 2 Rupees.
22. Composition Deed, or other Instrument of Composition between a debtor and his creditor. 8 Rupees.



## SCHEDULE A—(Continued).

## PROPER STAMPS.

23. Conveyance of Deed or Instrument of any kind or description whatsoever, executed for the sale or transfer, for a consideration of any land, tenement, rent, annuity or other property, real or personal, moveable or immoveable, or of any right, title, or claim to or upon, or interest in, any land, house, rent, annuity, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to, or otherwise vested in, the purchaser, or to some other person by his direction—

When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees 1 Rupee.

				Rs.	A.
Above Rs.	100 and not exceeding	Rs.	200 ...	2	0
"	200	"	400 ...	4	0
"	400	"	800 ...	8	0
"	800	"	1,200 ...	12	0
"	1,200	"	2,000 ...	20	0
"	2,000	"	3,000 ...	30	0
"	3,000	"	4,000 ...	40	0
"	4,000	"	5,000 ...	50	0
"	5,000	"	7,500 ...	75	0
"	7,500	"	10,000 ...	100	0
"	10,000	"	20,000 ...	150	0
"	20,000	"	40,000 ...	200	0
"	40,000	"	60,000 ...	300	0
"	60,000	"	80,000 ...	400	0
"	80,000	"	1,00,000 ...	500	0
And for every further 50,000 Rs.				200	0
Or part thereof				100	0

24. Conveyance when the consideration is an annuity. The same Stamp as for a conveyance when the purchase money is equal to ten times the annuity.

25. Conveyance of any kind whatever not otherwise charged, if the value of the property conveyed or if the consideration for the Conveyance be stated or appear on the face of the Conveyance. The same duty as would be charged if a consideration in money equal to such value were expressed in the conveyance as the consideration thereof.

If no value appear on the face of the Conveyance ... 50 Rupees.

26. Conveyance or Transfer of a share of a Banking Corporation or Joint Stock Company, whether by Deed or Endorsement, when the market value of the Share transferred does not exceed 100 Rs. per share. 4 Annas.

When it exceeds Rs. 100 and does not exceed Rs. 200 8 Annas.

" 200 " 300 12 Annas.

" 300 " 400 1 Rupee.

and for every 100 Rs. a further duty of 4 As., and for the conveyance or transfer of every quarter or half of any such Share, according to rate of Duty.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

## EXEMPTION.

All transfers of subscription to any of the Government Loans or other Government Securities.

27. Co-partnership, Deed or other Instrument of— 8 Rupees.

28. Copy—Copy or Extract of any Deed, Instrument, or Writing attested or certified to be a true copy or extract and furnished for the purpose of being given in evidence in any Civil or Revenue Proceeding or made for the security or use of any person being a party to, or taking any benefit or interest immediately under such Deed, Instrument, or Writing. The same Duty as the original when such Duty does not exceed 8 Annas.

If the Duty chargeable on the original exceed 8 As. 1 Rupee.  
but do not exceed 10 Rs.

If the Duty chargeable on the original exceed 10 Rs. 2 Rupees.  
but do not exceed 50 Rs.

If the Duty chargeable on the original exceed 50 Rs. 5 Rupees.

NOTE.—Every copy bearing the proper Stamp which shall at any time be offered in evidence shall be deemed to have been made for that purpose.

29. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the Deed, Instrument, or Writing per sheet. 8 Annas.

30. Copy, attested or certified to be a true copy or made for the purpose of being given in evidence in any Civil or Revenue Proceeding, of any Will, Testament, or Codicil, or of any Probate, or Probate Copy of any Will or Codicil, or of any Letter of Administration, or of any confirmation of any Testament, Testamentary or Dative, or of any part thereof respectively. 1 Rupee.

31. Copy, or Extract of any Deed, Instrument, or Writing annexed to any Deed, Instrument, or Writing. The same stamp as the Deed, Instrument, or Writing from which the copy or extract is made, if of value not exceeding 8 Annas; otherwise 8 Annas per sheet.

32. Copy authenticated or certified, of any record, letter, account, statement, report, or other writing, furnished to any individual from any Government Office, per sheet. 8 Annas.

For copies of Judicial or Revenue Papers given from Courts of Justice, Revenue Officers, &c. See Schedule B.

## EXEMPTION.

Copy of any paper which any Public Officer is required to make or furnish, for which a Stamp is not specially required by this Schedule.

33. Counterpart of a lease

... The same Stamp as for such lease.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

## EXEMPTION.

Counterpart of a lease executed by a ryot or other actual cultivator of the soil, provided that no fine or premium be paid as part of the same transaction.

(For Madras.)

Counterpart of a lease executed between landlord and tenant relative to lands in the Presidency of Madras, subject to the payment of Revenue to Government.

A counterpart of a lease includes a Kubbuleut and the like.

34. Covenant.—Any separate Deed of Covenant made on the sale or mortgage of any immoveable property or of any right or interest therein (the same not being a Deed chargeable with *ad valorem* Duty under the head of Conveyance in this Schedule) for the conveyance, assignment, surrender, or release of such property, right, or interest, or for the title to or quiet enjoyment, freedom from incumbrance, or further assurance of such property, right, or interest or otherwise by way of indemnity in respect of the same, or for the production of the Title-Deeds, or Muniment of Title relating thereto, or for all or any of those purposes. 10 Rupees.

35. Deed of Gift or Dower whether to take effect on the instant or at a future period, determinate or indeterminate. The same Stamp as for a Conveyance,

36. Deed of any kind not otherwise charged or expressly exempted from Stamp Duty by this Schedule. 1 Rupee.

37. Duplicate, or counterpart of any Deed, Instrument, or Writing of any description whatever chargeable with Duty under this Act not otherwise charged for or expressly exempted from Stamp Duty under this Schedule. The same Duty as the original when such Duty does not exceed 8 annas.

If the Duty chargeable on the original exceed 8 As., but do not exceed 10 Rs. 1 Rupee.

If the Duty chargeable on the original exceed 10 Rs. but do not exceed 50 Rs. 2 Rupees.

If the Duty chargeable on the original exceed 50 Rs. 5 Rupees.

Provided that such duplicate or counterpart Stamp shall be affixed by the Collector of Stamp Revenue of the District upon the production of the original Deed bearing its proper Stamp and not otherwise.

38. Exchange.—Any Deed, Instrument, or Writing whereby any real property shall be conveyed or surrendered in exchange for other property. The same Stamp as for a Conveyance.

39. Lease.—Any lease made in perpetuity, or for a term of years, or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent. The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

40. Any lease of any land, house, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

When the lease is for a period not exceeding one year. When the lease is for a period exceeding one year.

			Rs.	As.	Rs.	As.
Where the rent calculated for a whole year shall not exceed in value 24 Rs.			0	4	0	8
Exceeding Rs. 24 but not exceeding Rs. 50 ...			0	8	0	12
" 50 " 100 ...			0	12	1	0
" 100 " 250 ...			1	0	2	0
" 250 " 500 ...			2	0	4	0
" 500 " 1,000 ...			4	0	8	0
" 1,000 " 2,000 ...			8	0	16	0
" 2,000 " 4,000 ...			16	0	32	0
" 4,000 " 6,000 ...			24	0	48	0
" 6,000 " 10,000 ...			40	0	80	0
" 10,000 " 25,000 ...			100	0	200	0
" 25,000 " 50,000 ...			200	0	400	0
and for every additional 25,000 or for any part of every additional 25,000 Rs.			100	0	200	0

41. Any lease of any land, house, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium.

The same Stamp as for a lease for a period exceeding one year.

42. Any lease of any land, house, or other real property stipulating for a rent, granted in consideration of a fine or premium.

A Stamp of value equal to the joint value of the Stamps for a Conveyance in consideration of the fine and a lease for the rent.

*Exemptions.*

Any lease executed to a ryot or other actual cultivator ; provided that no fine or premium be paid as part of the same transaction.

*(For Madras.)*

Every lease or other engagement executed between landlord and tenant relative to land in the Presidency of Madras, subject to the payment of Revenue to Government.

43. Letter, or Power-of-Attorney, not being of the kinds provided for in Schedule B. 4 Rupees.

If the Letter or Power-of-Attorney be for the performance of one act only, and the value of the property to be dealt with be expressed in the Letter or Power and do not exceed 500 Rupees. 1 Rupee.

If the Letter or Power of Attorney be made for the sole purpose of appointing or nominating a proxy to vote at any one meeting of the Proprietors or Shareholders, or in Act XXVI\* of 1867, any joint stock Company or other Company or Society whose stock or funds is or are divided into shares or transferable. 4 Annas.

44. Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an *ad valorem* Stamp under this Act. The same Stamp as for a Bond.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

If given for securing any sum of money exceeding 500 Rupees, for which the person giving the same shall then be in actual custody under an arrest on mesne process or in execution. 4 Rupees.

If given as such collateral security as abovementioned. 5 Rupees.

Note.—For Wakalatnamahs, Mooktarnamas and other powers required to be filed for the conduct of suits or proceedings of any kind pending before the Courts of Justice or before the Revenue Authorities. See Schedule B.

45. Letter of license from a creditor to his debtor. 8 Rupees.

46. Mortgage.—Any Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, or of any acknowledgment in the nature of a Mortgage, Conditional Sale, Pledge, or Hypothecation of or in respect of any immoveable property with or without possession given or of any personal property without possession given, intended as a security for money due or to be lent thereupon; also any Deed or Contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time. The same Stamp as for a Bond for the payment of the amount due or lent.

47. Deed of Mortgage or Conditional Sale, Assignment, Pledge or Hypothecation, or of any Acknowledgment, in the nature of a Mortgage, Conditional Sale, Assignment, Pledge, or Hypothecation given for a loan or advance made on the deposit of any personal property. The same Stamp as for a Promissory Note.

48. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession given of any immoveable property or of any right, title, or interest therein, intended as security for the transfer of a Government Security, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued. The same Stamp as for a Bond for the payment of the total amount assured, or for the *bona fide* value.

49. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession given of any immoveable property, or of any right, title, or interest therein, given for the security of an annuity for an indefinite period, such as a Life Annuity. The same Stamp as for ten times the annual payment.

Where it may be stipulated that the amount secured by such Mortgage shall not exceed a certain sum. The same Stamp as for a Deed of Mortgage of such limited sum.

Where the total amount secured by the Mortgage is unlimited. An optional Stamp—See Section XXVII of the Act.

50. Deed of Mortgage where a Bond shall have been already taken for the amount secured, or where, from any other cause, the Mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed. The same Stamp as for the Bond or other Instrument if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.

## SCHEDULE A—(Continued)

## PROPER STAMPS.

NOTE.—Where there are more Deeds than one required to execute the Mortgage in the manner desired by the parties, then for every other Deed than the principal Deed; provided the original Deed has been duly stamped.

The same Stamp as for the principal Deed if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.

## EXEMPTION.

Letter of Hypothecation accompanying a Bill of Exchange.

51. MORTGAGED PROPERTY.—Re-conveyance of— The same Stamp as for an Assignment.

52. MORTGAGED PROPERTY.—Release of an equity of redemption of.— The same Stamp as for a Conveyance.

53. NOTARIAL ACT.—Any Notarial Act whatsoever not otherwise charged in this Schedule. 2 Rupees.

54. Partition by private Agreement or made by a Public Officer, of an estate or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for each sharer's copy of the Deed of partition.—

When the sharer's portion does not exceed one hundred rupees in value.

Exceeding Rs. 100 and not exceeding Rs. 200

" 200 " 400

" 400 " 600

" 600 " 800

" 800 " 1,000

And for every additional four hundred Rupees, or part thereof.

Rs.	As
0	8
1	0
2	0
4	0
6	0
8	0
2	0

When the subject of the partition, consisting either wholly or in part of other property than money, and money not being part of such subject is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject.

A Stamp of value equal to the joint value of the Stamp which would have been required had the subject of partition been actually divided with the just proportion and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.

55. Policy of Insurance, or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life or upon any event depending upon any life or against loss or damage by fire upon any building or property, not of the description mentioned in Article 56—

For every sum of one thousand Rupees and also for 8 Annas, each and every fractional part of one thousand Rupees;

## SCHEDULE A—(Continued).

## PROPER STAMPS.

56. Policy of Insurance of any ship, vessel, sloop, lighter boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured.

	If executed singly.				If executed in sets of two, each to be stamped.
		As.		As.	
		8		4	
		Rs.		As.	
		1		8	

If the whole sum insured shall not exceed one thousand Rupees.

If the sum insured exceed one thousand Rupees, for every one thousand Rupees eight annas if executed singly ; and if executed in a set of two, four annas for each number.

Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rupees.

If the sum insured exceed one thousand Rupees, for every one thousand Rupees and also for any fractional part of one thousand Rupees whereof the same shall consist, one Rupee if executed singly ; and if executed in a set of two, eight annas for each number.

If drawn in a set of more than two, each of the set in excess of two, to be stamped as required for each one of a set drawn in a set of two.

NOTE.—A Letter of cover or engagement to issue a Policy of Insurance does not require a Stamp. Provided that, unless such letter or engagement bear the full Stamp prescribed for a policy of Insurance, no money shall be paid or payable upon it, nor shall it be filed, exhibited or recorded in any Court in India otherwise than to compel the delivery of a Policy on the prescribed Stamp.

Promissory Note.—See Bill of Exchange.

57. Promissory Note for the payment of any sum by instalments, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain.

The same Stamp as for a Bond for the payment of the whole amount.

	Rs.	As.
58. Protest of any Bill of Exchange or Promissory Note for any sum of money.	2	0
59. Protest of any Commander or Master of a vessel.	2	0
60. Protest Notice of intention of—of any Commander or Master of a vessel.	0	8
61. Receipt or discharge given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, exceeds twenty Rupees.	0	1

## SCHEDULE A—(Continued).

## PROPER STAMPS.

## GENERAL EXEMPTIONS.

Letter sent by post acknowledging the arrival of a Currency or Promissory Note, Bill of Exchange, or any Security for money.

Receipt or discharge for the rent of land paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land cultivated by him.

Receipt or discharge written upon any Promissory Note, Bill of Exchange, Draft, or Order for the payment of money, duly stamped.

Receipt or discharge written upon or contained in a Mortgage Deed, or other Security, or a Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed or the receipt of any principal money, interest, or annuity thereby charged.

Receipt given for money deposited in any Bank, or in the hands of any Barker, to be accounted for, whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of any allotment of a share, in respect of a call upon any scrip or share of or in any joint Stock or other Company, or proposed or intended Company, which last mentioned receipt or acknowledgment, by whomsoever given, shall be liable to the Duty charged upon a receipt.

	Rs.	As.
62. Release to an Executor or Trustee from his trust,	10	0
63. Schedule annexed or referred to in any Agreement, Lease, Bond, Deed or other Instrument, per sheet.	0	8

64. Settlement, Marriage Settlement, &c., namely, any Deed or Instrument, whereby any sum of money, or any Government Security or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person, in any manner whatsoever.

The same Stamp as prescribed by Article 12 for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate; an optional Stamp—See Section XXVII of the Act.

65. Shipping order for or relating to the conveyance of any goods on board of any ship or vessel. 1 anna.

66. Warrant. Bonded Warehouse— ... 8 annas.

## GENERAL EXEMPTIONS.

Any Deed, Instrument, or Writing of any kind made or executed by or on behalf of the Government by any Government Board, Commission, Court, Officer, or Agent.



## SCHEDULE A—(Concluded).

## PROPER STAMPS.

NOTE :—The foregoing exemption does not extend to any Deed, Instrument, or Writing executed by a Court of Wards, Local Agent, or Officer acting under the authority of any such Court or Agent, or by a Municipal Commissioner or by any Administrator-General or a Receiver appointed by any Court; neither does it extend to a sale made for the recovery of an arrear of revenue or rent, or in satisfaction of a decree or order of Court, in any of which cases the purchaser shall be required to pay, along with the purchase money, the price of the requisite Stamp, or else provide such Stamp and shall receive from the Officer conducting the sale a Deed of Sale executed on the proper Stamp.

Renunciation of land executed by a Ryot or other actual cultivator of the land to his landlord.

Will, Testament, and the like, together with a Deed merely declaratory of trust or appointment or otherwise, in execution of powers, or pursuant to any previous Settlement, Deed, or Will.

NOTE :—(2) Any Deed, Instrument, or Writing required by the foregoing Schedule to be stamped, may be written on one or more Stamps, if the value of the Stamps used amount to the value required by the Schedule.

(b) When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In any case, however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp as the principal Deed, if of value not exceeding eight Rupees (which shall be the maximum stamp for collateral Deeds), and every such collateral Deed shall specify by its contents which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed on the proper Stamp.

## SCHEDULE B.

This Schedule is repealed by Act XXVI of 1867, and another substituted for it.

## APPENDIX IV-D.

### ACT XXXVI OF 1860.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE  
2ND AUGUST, 1860 ]

*An Act to consolidate and amend the law relating to Stamp Duties.*

Preamble,

WHEREAS it is expedient to consolidate and amend the law relating to Stamp Duties ; It is enacted as follows :—

I. From the time when this Act shall come into force, Regulation XII, 1826 (for raising and levying Stamp duties within the Town of Calcutta) with the corresponding Regulation enacted on the 14th June 1827 and registered in the Supreme Court at Calcutta on 12th July 1827, and Regulation X, 1829 of the Bengal Code (for consolidating into one Regulation, with modifications, the existing enactments relating to the collection of Stamp Duties), Regulation XIII, 1816 of the Madras Code (for modifying and amending the Rules before enacted regarding stamped paper and Stamped Cadjans ; and for consolidating the Fees payable on the institution of suits, and on exhibits and summonses for witnesses, with the duty levied by means of Stamps), Regulation XVIII, 1827 of the Bombay Code (for levying a Stamp Duty on certain papers within the Territories subordinate to the Presidency of Bombay), Regulation III, 1828 of the same Code (for subjecting to the Stamp Duty certain Plaints and other Papers exempted therefrom under Regulation XVIII of 1827), Regulation VI, 1828 of the same Code (for extending in the same manner as in suits before the Courts of Civil Judicature, Stamps to suits cognizable by Collectors under the operation of Chapter VIII, Regulation XVII of 1827 or any other now in force), Regulation VIII, 1830 of the same Code (for changing the Counter-Stamp to be impressed on Stamped Paper and other material), Regulation III, 1831 of the same Code (for subjecting to the Stamp Duty copies of decrees passed by Native Commissioner's exempted therefrom under Regulation XVIII of 1827), Regulation XIV, 1831 of the same Code (for rescinding that part of Section VII, Regulation XVIII of 1827, which requires all Stamped Paper to be endorsed with the Official signature of some persons belonging to the Office of Superintendent of Stamps, and prescribing how that duty shall henceforth be performed), and Section XXXVII of Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal)—are repealed, except in so far as they rescind other Regulations or parts of other Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force.

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A, annexed to this Act, there shall be payable to Government a stamp duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

III. If any person shall draw, accept, endorse, negotiate, pay, or receive payment

Penalty for drawing, etc., unstamped or insufficiently stamped Bill of Exchange, etc.

of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar instrument, or if any person shall make, execute, sign, or be a party to any Deed, instrument, or other Writing engrossed on unstamped or insufficiently stamped paper or other material, which should bear a Stamp of the value set forth in Schedule A, such person, so offending, shall forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

IV. The Governor General in Council shall prescribe the form and material of

Governor-General in Council to prescribe the form of Stamps to be used, etc.

the Stamps to be used, and the mode and place of impressing, affixing, or denoting thereon the value thereof under the provisions of this Act, and may from time to time alter and vary such orders. All orders made by the Governor-General in Council under this Section shall be published in the Official Gazettes of the several Presidencies and places in which such orders are to be in force.

V. The Duty imposed by this Act on every Receipt, and on every Draft or Order

Receipt Stamps how to be denoted.

for the payment of money on demand, and bearing the date on which the Draft or Order is made, may be denoted by a Stamp impressed upon the paper whereon any such Instrument is written, or by an adhesive Stamp affixed thereto. It shall be lawful, until the Governor-General in Council shall direct to the contrary by an order to be published in the Gazette, to use a Postage Stamp of the value of half anna on every Receipt, Draft, or Order for which a half anna Stamp is required by this Act.

VI. In any case where an adhesive Stamp shall be used for the purpose aforesaid

Obliteration of adhesive Stamp when used.

on any Receipt or upon any Draft or Order chargeable with the Duty of half anna or of one anna by this Act, the person by whom such Receipt shall be given or such Draft or Order signed or made, shall, before the Instrument shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name, or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of and so that the same may not be again used; and if any person who shall write or give any such Receipt or discharge or make or sign any such Draft or Order with any adhesive Stamp thereon, shall not *bona fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

VII. The Duties imposed by this Act on Foreign Bills of Exchange shall be paid

Stamps on Foreign Bills of Exchange, etc.

on account of all Bills drawn within, but payable out of, the, British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be payable within those Territories, or shall therein be endorsed, transferred, or otherwise negotiated, wheresoever the same may be payable; and the Duties so imposed on Bills drawn out of the British Territories in India, shall be denoted by adhesive Stamps to be affixed to such Bills as he hereinafter directed.

VIII. Every Bill of Exchange which shall purport to be drawn at any place out

Bills purporting to be drawn abroad deemed for the purposes of this Act to be so drawn.

of the British Territories in India shall, for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same may have been drawn within those Territories.

## IX. The holder of any Bill of Exchange drawn out of the British Territories in

The holder of a Bill drawn out of the British Territory to affix an adhesive Stamp thereon before negotiating it.

India and not having a proper adhesive Stamp affixed thereon as herein directed shall, before he shall present the same for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereon a proper adhesive Stamp for denoting the Duty by this Act charged on such Bill; and the person who shall endorse, transfer, and negotiate such Bill shall, before he

shall deliver the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the same as his endorsement his name or the name of his firm and the date of the day and year on which he shall so write, the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such other manner as to show that the Stamp has been made use of and so that the same may not be again used: and if any person shall present for payment or shall pay or

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

endorse, transfer or negotiate any such Bill as aforesaid whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person, who ought as directed by this Act to cancel such Stamp in manner aforesaid, shall refuse or neglect so to do, such person so offending in any such case shall be liable to the penalty prescribed in Section III of this Act, and no person who shall take or receive from any

other person any such Bill as aforesaid either on payment or as a security or by purchase or otherwise, shall be entitled to recover thereon or to make the same available for any purpose whatever unless at the time, when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereon and cancelled in the manner thereby directed.

## X. If any person shall, within the British Territories in India, draw and issue

Penalty for drawing and issuing or transferring or negotiating Bills purporting to be drawn in a set of three and not drawing the whole number of the set. Penalty on taking or receiving such Bills.

any Bill of Exchange payable out of the British Territories in India, purporting to be drawn in a set of three, and shall not draw and issue, on paper duly stamped as required by law, the whole number of Bills which such Bill purports the set to consist of or if any person shall within the British Territories in India transfer or negotiate any such Bill of Exchange as aforesaid purporting to be drawn in a set of three, and shall not at the same time transfer or deliver on paper duly stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, every such person so offending in any of such cases, shall be liable to the penalty prescribed in

Section III of this Act; and if any person shall take or receive in the British Territories in India any such Bill as aforesaid either in payment, or as a security or by purchase or otherwise, without having transferred or delivered to him duly stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of he shall not be entitled to recover on any such Bill or to make the same available for any purpose whatever.

## XI. If any person shall affix or use any adhesive Stamp which to his knowledge

Penalty for use of adhesive Stamp which has been removed from a Receipt, etc.

shall have been taken off or removed from any paper whereon any Receipt or any Draft, Order, or Bill of Exchange shall have been written, to or for any Receipt, Draft, Order, or Bill of Exchange or any paper whereon any such Receipt, Draft, Order, or Bill of Exchange shall be or be intended to be written; or if any person shall do or practise or be concerned in any

fraudulent act, contrivance, or device whatever not specially provided for by this or some other Act, with intent to defraud the Government of any Duty imposed by this Act upon Receipts or upon Drafts, Orders, or Bills of Exchange—every person so

offending in any of the said several cases shall forfeit a sum not exceeding two hundred Rupees.

**XII.** Except as otherwise provided by this Act, no Deed, Instrument, or Writing for which any Duty shall be payable under Section II of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil Proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office or authenticated by any public Officer, unless such Deed, Instrument, or writing be upon a Stamp of a value not less than that indicated to be proper for it by the said Schedule. Provided that every Deed, Instrument, or Writing liable to Stamp Duty shall be admitted as evidence in any Criminal Proceeding, although it may not have the Stamp required by law impressed thereon or affixed thereto.

**XIII. First.**—Deeds, Instruments, and Writings executed on unstamped or insufficiently stamped paper from accident, ignorance, inadvertence, mistake, or from other unavoidable cause, may be impressed with the requisite Stamp or Stamps, on application being made to the Collector of Stamp Revenue, after payment of so much as will make up the proper amount of Stamp Duty, and the penalties hereinunder stated, or such mitigated penalty as the local Government or any Board or Officer authorized by the local Government may prescribe. Provided always that the payment of such penalty shall exempt the person making the same from any other penalty provided by this Act for such neglect or omission, and that if any such other penalty shall already have been imposed, then the same shall be taken as far as it goes in reduction of any penalty arising under this Section.

Deeds inadvertently executed on unstamped or insufficiently stamped paper may be stamped on payment of proper Stamp Duty and penalty.

Deeds inad-  
vertently executed on  
unstamped or in-  
sufficiently stamped  
paper may be stamp-  
ed on payment of  
proper Stamp Duty  
and penalty.

Penalty if exe-  
cuted on unstamped or  
insufficiently stamp-  
ed paper and  
brought to be stamp-  
ed within thirty  
days of execution.

Penalty if brought  
within three months  
of execution or six  
months of Act  
coming into force.

Penalty if not  
brought within the  
two periods last  
mentioned.

**Second.**—If the Deed, Instrument, or Writing executed as aforesaid on unstamped or insufficiently stamped paper be brought within thirty days from the date of execution, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and treble the amount of the deficient Duty; if brought after thirty days from the date of execution, but within three months from that date, or if brought within six months from the time of this Act coming into force, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and five times the amount of the deficient Duty, or if not brought within the two periods last mentioned, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and twenty times the deficient Duty.

**Third.**—It shall be the duty of the Collector of the Stamp Revenue of the District, or other Officer as aforesaid, to determine whether upon payment of the penalties mentioned in the last preceding Clause, the requisite Stamp shall be impressed, on any Deed, Instrument, or Writing which shall have been executed on unstamped or insufficiently stamped paper, and the decision of the Collector shall be conclusive and final,

In what cases  
decision of Collector  
final.

Mitigation of  
penalty.

except in cases in which he shall refuse to allow the Deed, Instrument, or Writing to be stamped. The Board of Revenue or other general controlling Revenue Authority may, however, upon petition, order such penalty to be mitigated, and if paid, may order such part of it as they may consider proper to be returned.

*Fourth.*—Sections 130 and 131 of Act VIII of 1859 (for simplifying the Procedure of the Court of Civil Judicature not established by Royal Charter) are hereby repealed, and in lieu thereof it is enacted as follows:—In all cases under this Act in which a Collector may impress a Stamp on payment of the proper amount of Stamp Duty and a penalty, any Civil Court may receive in evidence any Deed, Instrument, or Writing which might be so

impressed, on payment into Court of the proper amount of Stamp Duty, and the penalty as by this Section imposed.

*Fifth.*—An entry of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of the Deed, Instrument or Writing, and shall be signed by a Judge of the Court. The Court shall at the end of every month make a return to the Collector of the Stamp Revenue of the District, of the monies (if any) which it has so received, distinguishing between the monies received by way of penalty and those received by way of the Duty stating the number and title of the suit and name of the party from whom such monies were received, and the date, if any, and description of the document, for the purpose of identifying the same, and the Court shall pay over the said monies to such Collector or to such person as he may appoint to receive the same. And such Collector or other proper authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement herein-before mentioned, cause it to be stamped thereon with a Stamp of the amount paid into Court on account of such Duty. All the provisions herein-before contained as to the mitigation or payment of penalties paid to the Collector shall be applicable to penalties paid into Court.

No unstamped or  
insufficiently stamped  
Deed etc., to be  
stamped, except as  
aforesaid.

*Sixth.*—No Deed, Instrument, or Writing executed on unstamped or insufficiently stamped paper shall be stamped at any time after the execution thereof, except as aforesaid.

*Seventh.*—The cost of transmitting all deeds, Instruments, and Writings required to be stamped under this Section, and the cost of registering the same at the Post Office for transmission, shall in all cases, be borne by the party applying to have such Deeds, Instruments, and Writings stamped.

*Eighth.*—The Government shall not be responsible for any loss or damage which may occur in respect of any Deed, Instrument, or Writing entrusted to the Collectors of Stamp Revenue, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless that person shall wilfully fraudulently, or by gross negligence, cause such loss or damage.

Provisions of this  
Section not to extend  
to Bills of Exchange  
etc., drawn  
in India.

But no part of this Section shall extend to Bills of Exchange or other forms of orders for money drawn within the British Territories in India, or to receipts for money.

XIV. No larger sum shall be recoverable in any Court of Justice by reason of any

What sum recoverable under a writing bearing an optional Stamp.

Deed, Instrument, or Writing for which an optional Stamp is indicated to be proper by the said Schedule, than the largest sum for which, if specially stated in a Deed, Instrument, or Writing of the same denomination, the Stamp actually used under the option so given, would be of sufficient value. And

no such Deed, Instrument, or Writing shall be held by any Court of Justice to be valid in respect to any sum of money larger than that for which the Stamp on the said Deed, Instrument, or Writing would be sufficient.

XV. Every person receiving payment of any sum of money, the receipt for which

Expense of providing Receipt Stamps, etc.

under this Act requires a Stamp, shall, if required, give a receipt bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred

Rupees. The expense of providing the stamp of all Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, and other Orders and Obligations for the payment of money made or drawn in the British Territories in India (not being bonds or Instruments or Writings bearing the attestation of one or more witnesses), shall be borne by the person making or drawing the same.

Effect of provision contained in the Schedules.

XVII. Every provision contained in the Schedules annexed to this Act shall be of the same force as if it were contained in the body of the Act.

XVIII. The Governor-General in Council may, by an order to be published in the

Governor-General in Council may order rates of Stamp Duty in any District, or altogether exempt the same, &c.

Calcutta Gazette, direct that in any District such lower rates, of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments, or Writings specified in the Schedules to this Act, or altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Provided that this Section shall not extend to Bills of Exchange or other Instruments classed as Bills of Exchange.

Proviso.

XXXII. *First*.—If any stamped paper, parchment, vellum, or the like, after

Renewal of damaged or spoiled Stamps.

having been obtained in the regular manner, shall have become damaged, spoiled, or unfit for use, either by any accident happening to the same, or because of error in the drawing up or copying any instrument or Writing thereupon, which being

discovered before such Instrument or Writing may be finally signed and executed, renders the same of no avail, or when by reason of the death or refusal of the party or parties whose signature may be necessary to effect the transaction intended by such Instrument or Writing it remains incomplete and of no avail, or when by the refusal of any officer or trust that may be granted by an Instrument or Writing it has failed of the purpose intended, or in the case of Promissory Notes, Bills of Exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same are never brought to use, and in the case of Bills of Exchange if they shall not have been presented for acceptance; in all such cases it shall be competent to the Collector of the Stamp Revenue of the District duly appointed as above provided, upon delivery being made of the stamped paper, parchment, vellum, or the like so damaged, spoiled, or rendered unfit for use, to cause similar stamps or stamps of equal value to be delivered as above provided to the owner of the article or articles so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the paper, parchment, vellum, or other material, on which the new Stamp may be impressed. But the rule

contained in this Section shall not extend to Bills of Exchange drawn in sets, of which any one of the set may have been delivered to the payee.

*Second.*—The owner of any stamp which may be damaged, spoiled or rendered unfit for use as aforesaid, shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased it and if the Collector be of opinion that the application ought to be complied with, he shall deliver or cause to be delivered, subject to the provisions of this Act to the party or his representative, a stamp similar to that which has been damaged, spoiled, or rendered unfit for use. Provided that the application be made within one year of the period when the stamp may have become damaged, spoiled, or rendered unfit for use.

XXXIV. No Justice of the Peace or any Officer, before whom an affidavit not made for the immediate purpose of being filed, read, or used in any Court of Law may be taken, shall receive or attest such affidavit unless it be written on a stamp of not less than the value prescribed in Schedule A annexed to this Act.

XXXV. From the time when this Act shall come into force, in all cases of the sale of any lands, annuities, or other property, real or personal moveable or immoveable, or any right, title, interest, or claim in any such property, when a Duty is imposed by this Act on the conveyance thereof, the full purchase or consideration money directly or indirectly paid or secured or agreed to be paid for same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing, whereby the property sold shall be conveyed to or vested in the purchaser or in any other person; and if the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred Rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for the said Deed, Instrument, or Writing in respect of the full purchase or consideration money, if the same had been duly expressed in the said Deed, Instrument, or Writing beyond the amount of Duty actually paid for the same.

XXXVI. If any person shall knowingly and wilfully insert or set forth in such Deed, Instrument, or Writing, any less amount than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, he shall incur the penalties prescribed in the last preceding Section.

XXXVII. No person shall be proceeded against for any offence affecting the public Revenue under this Act except at the suit or prosecution of the Collector of the Stamp Revenue acting under the orders of the Board of Revenue, or other Authority charged by Government with the duty of carrying out the provisions of this Act, or other Public Officer duly authorized by Government.

XXXVIII. Every offence punishable by this Act, except the offences punishable by Section XXXIII, shall be tried by any Magistrate or Justice of the Peace.

XXXIX. The offences punishable by Section XXXIII shall be tried by the Court having jurisdiction over the same, whether it be the Supreme Court of Judicature or the Session Judge or other Officer.



**XL.** If any person sentenced to any fine under the provisions of this Act, shall not pay the fine to which he shall be sentenced, it shall be lawful for the Officer or Court who tried him, to issue his or their warrant to levy the amount by distress and sale of the goods and chattels of the party fined, or to sentence the offender to imprisonment until the payment of the fine, or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

**XLI.** Throughout this Act and the Schedules annexed to it, the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; the term "Bill of Exchange" shall include a Hoondee or any other Instrument of a like nature: and by the "value" of a stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other materials.

**Commencement of Act.** **XII.** This Act shall come into force from the 1st of October 1860.

### SCHEDULE A.

Specifying Deeds, Instruments, and Writings which require Stamps, and indicating the proper Stamps for those Deeds, Instruments, and writings.

#### PROPER STAMPS.

1. Agreement, Ikrar, or any Minute or Memorandum of an Agreement, such Agreement, Minute, or Memorandum not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the party—

If relating to matters capable of valuation, and with the value stated. The same Stamp as for a Bond for the payment of the amount of the value stated.

If for an annual or any periodical payment ... The same Stamp as for a Bond for the amount of ten years' payment or of the total sum secured if less.

If for the performance of any legal act, or for a purpose not restricted to, nor specifying any amount. An optional Stamp.—See Section XIV of the Act.

Agreements for loans by Banker made for short periods upon the deposit of Notes or other Securities of the Government of India, with or without a deposit of the Acceptance or Promissory Note of the borrower, provided that no such agreement is drawn in form of a Bond or of a Bill of Exchange or Promissory Note, or in any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case such loan shall not exceed one month, the uniform Stamp of 2 Rupees.

And in case such loan is for a period exceeding one month, or not exceeding three months. 4 Rupees.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

*Exemptions.*

Agreement for the hire of any labourer, Artificer, Manufacturer, or menial Servant.

Agreement, Memorandum, or Letter made for or relating to the sale of any Goods, Wares, or Merchandize.

2. Affidavits and solemn declarations not made for the immediate purpose of being filed, read, or used in any Court of Law, per sheet. 1 Rupee.

3. Assignments if not of the nature specified under the heads of Conveyances and Settlements, nor specially exempted—

In cases where the Assignment is of any interest secured by an original Deed or Instrument on a Stamp of a value less than eight Rupees. The same Stamp as the original Deed.

In other cases ... 8 Rupees.

*Exemption.*

All transfers by mere endorsement of Bills of Exchange, Promissory Notes, and other negotiable Instruments; and of Bills of Lading; and transfers by Assignment of Policies of Assurance.

4. Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, Hoon-dees, and other orders and obligations for the payment of money, not being Bonds, or Instruments, or writings, bearing the attestation of one or more Witnesses—

If payable to the bearer or to order on demand, and bearing the date on which the draft or order is made, except Bank Notes payable to bearer on demand.

If the sum payable does not exceed 50 Rs. ...

Rs.	As.
0	1

0	$\frac{1}{2}$
---	---------------

If payable at any period not exceeding one year after date or sight, then—

Inland and Foreign, if drawn singly.	Foreign if, drawn in sets of three, each to be Stamped.
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Bills not exceeding	Rs.	100	Rs.	As.	Rs.	As.
Above Rs. 100 and not exceeding		250	0	1	0	1
" 250		500	0	3	0	1
" 500		1,000	0	6	0	2
" 1,000		2,500	0	12	0	4
" 2,500		5,000	1	8	0	8
" 5,000		10,000	3	0	1	0
" 10,000		20,000	6	0	2	0
" 20,000		30,000	12	0	4	0
" 30,000 and upwards		...	18	0	6	0
			24	0	8	0

5. Any of the Instruments described in No. 4, payable at a period exceeding one year after date or sight.

The same Stamp as for Bonds for the payment of the same amount.

6. Bills of Lading of or for any Goods, Merchandize, or effects to be exported.

4 Annas for each part of every set.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

7. Bills of Sale—See Conveyance and Mortgage.

8. All Bonds or other obligations for the payment of any definite or certain sum of money not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule—

			Rs.	A.
If for any sum not exceeding Rs. 50			0	4
Above Rs. 50 and not exceeding Rs. 100			0	8
" 100	"	200	1	0
" 200	"	300	2	0
" 300	"	500	4	0
" 500	"	700	5	0
" 700	"	1,000	6	0
" 1,000	"	2,000	10	0
" 2,000	"	3,000	15	0
" 3,000	"	5,000	25	0
" 5,000	"	10,000	35	0
" 10,000	"	20,000	60	0
" 20,000	"	40,000	100	0
" 40,000	"	60,000	125	0
" 60,000	"	80,000	150	0
" 80,000	"	1,00,000	200	0
And for every further part of a lac			100	0
And for every further full lac...	...	...	200	0

9. Bonds or other obligations, concerning respondentia and bottomry. The same Stamp as for a common money Bond for the like amount.

10. Bonds or other obligations given as security for the transfer of Government Securities or Stock of any public company or for the delivery or accounting for any matter or thing capable of being valued. The same Stamp as for a Bond for the payment, of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.

11. Bond or other obligations for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond whether for a fixed or for an indefinite period. The same Stamp as for a Bond for the payment of a sum equal to ten times the yearly payment or of the total sum secured, if less.

12. Bonds or other obligations when the amount of the money to be secured is not specified. An optional Stamp—See Section XIV of the Act.

When the amount is limited to a certain sum ... The same Stamp as for a Bond for the payment of such limited sum.

13. Bonds or other obligations for the due execution of an office, or work taken by individuals, and all other Bonds not otherwise specially provided for. An optional Stamp—See Section XIV of the Act.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

14. Bonds or other obligations taken as Collateral security with some Deed or Instrument executed on the Stamp prescribed for Conveyance or Money Bonds, or as security for the performance of any other contract covenant, or agreement not being for the payment, of money the transfer of property, or the satisfaction of any pecuniary demand.

The same stamp as the Deed, Instrument, Contract, Covenant, or agreement, if of value not exceeding eight Rupees; otherwise a Stamp of eight rupees.

15. Security Bonds or other obligations which may be taken by or by order of any Court, Collector, or other Judicial or Revenue Authority, also Razeenamahs, Soolahnamahs, and Rufanamahs, filed in any suit pending in a Court of Justice.

To be charged as specified, and prescribed in Schedule B.

16. Charter-parties, or any agreement or contract for the Charter of any Seagoing Ship or Vessel, or any memorandum, letter, or other writing between the Captain, Master, or Owner of any such Ship or Vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such Ship or Vessel.

2 Rupees.

17. Composition Deeds or other Instruments of composition between a debtor or debtors and his, her, or their creditors.

8 Rupees.

18. Contract and deeds, if not otherwise specially provided for.

As agreements,

19. Conveyances or Deeds or Instruments of any kind or description whatsoever, executed for the sale or transfer for a consideration, of any lands, tenements, rents, annuities, or other property, real or personal, moveable or immoveable, or of any right, title, or claim to or upon, or interest in, any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only Deed, Instruments, or Writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person by his, her, or other directions—

	RS.	As.
When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees.	1	0
Above Rs. 100 and not exceeding Rs. 200	2	0
" 200	4	0
" 400	8	0
" 800	12	0
" 1,200	20	0
" 2,000	30	0
" 3,000	40	0
" 4,000	50	0
" 5,000	75	0
" 7,500	100	0
" 10,000	150	0
" 20,000	200	0
" 40,000	300	0
" 60,000	400	0
" 80,000	500	0
And for every further	200	0
Or part thereof ...	100	0

0 8

## SCHEDULE A—(Continued).

## PROPER STAMPS.

24. Copies authenticated of any records, letters, accounts, statements, reports, or other writings, furnished to individuals from any of the Public Officers of Government, per sheet.

Rs.	As.
0	8

For copies of Revenue and Judicial Papers to be given from the Courts of Justice, Revenue Kutcheries, &c. See Schedule B.

*Exemption.*

Copies of papers which Public Officers are directed by any law or general regulation to make, require or furnish, for which Stamps are not specially required by this Schedule.

25. Deeds of gift and dower, whether to take effect on the instant, or at a future period, determinate or indeterminate. The same Stamp as for Conveyances.

26. Deeds of any kind not otherwise particularized in this Schedule. As Agreements.

27. Exchanges.—Any Deed or Instrument whereby any real property shall be conveyed or surrendered in exchange for other property. The same Stamp as for Conveyances.

28. Engagement to cultivate, produce, provide, or derive any article of commerce in consideration of advance made. Shall be charged on the amount advanced at the rate of Bonds.

29. Leases.—Any lease made in perpetuity, or for a term of years, or period determinable within one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent. The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

30. Any lease of lands, houses, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

When the lease is for a period not exceeding one year.	When the lease is for a period exceeding one year.
Rs. As.	Rs. As.

Where the rent calculated for a whole year shall not exceed 24 Rupees.

Above	Rs.	24	and not exceeding	Rs.	50		
"	50		"	100		0	8
"	100		"	250		0	12
"	250		"	500		1	0
"	500		"	1,000		2	0
"	1,000		"	2,000		4	0
"	2,000		"	4,000		8	0
"	4,000		"	6,000		16	0
"	6,000		"	10,000		24	0
"	10,000		"	25,000		40	0
"	25,000		"	50,000		100	0
						200	0

And for every additional Rs. 25,000, or part thereof... 100 0 200 0

## SCHEDULE A—(Continued).

## PROPER STAMPS.

31. Any lease of lands, houses, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium. The same Stamp as for a lease for a period not exceeding one year.

32. Any lease of lands, houses, or other real property, stipulating for a rent, and granted in consideration of a fine or premium. A Stamp of value equal to the joint values of the Stamps for a Conveyance in consideration of the fine and a lease for the rent.

33. The counterpart of any Lease, or a Kuboolcut or the like. The same stamp as for the lease.

*Exemptions.*

All Leases, Pottahs, and Kuboolcut, executed and exchanged with ryots and other actual cultivators of the soil, provided that no fine or premium be paid and no Security Bonds executed as part of the same transactions.

(For Madras and Bombay.)

Every Lease and its counterpart (Pottah and Kuboolcut) or other engagement contracted between landlord and tenant, relative to lands subject to the payment of Revenue to Government.

34. Letters, or Powers-of-Attorney, Mooktarnamahs, &c., not being of the kinds provided for in Schedule B—

For the performance of any special act or acts, or of the acts connected with any one particular suit, case, or transaction.

Rs. As.  
0 8

General, that is not restricted as above ... 4 0

Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an *ad valorem* Stamp under this Act. The same Stamp as for a Bond.

If given as such collateral security as above mentioned. 5 Rupees,

NOTE.—For Wakalatnamahs, Mooktarnamahs, and other powers, required to be filed for the conduct of suits, regular or summary, or proceedings of any kind pending before the Courts of Judicature or before the Revenue Authorities. See Schedule B.

35. Letters of license from creditors to debtors. 8 Rupees.

36. MORTGAGES.—Any deed of mortgage or of conditional sale with or without possession given, or for any lands, estates, or property, real or personal, intended as a security for money due or to be lent thereupon; also any deed or contract accompanied with a deposit of title-deeds to any property, where the same may be made as security for payment of money due or lent at the time. The same Stamp as for a Bond for the payment of the amount due or lent.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

37. Re-conveyance of mortgaged property.	The Stamp as for Assignments.
38. Release of an equity of redemption.	The same Stamp as for Conveyances.
39. Deeds of mortgage, or the like, given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued.	The same Stamp as for a Bond for the payment of the total amount assured, or for the <i>bona fide</i> value.
40. Deeds of mortgage given for the security of annuities for an indefinite period; such as life annuities.	The same Stamp as for ten times the annual payment.
Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum.	The same Stamp as for deeds of mortgage of such limited sum.
Where the total amount secured by the mortgage is unlimited.	An optional Stamp—See Section XIV of the Act.
Where a Bond may have been already taken for the amount secured, or where from any other cause the mortgage shall act merely as a collateral security to some other transactions in which an Instrument requiring a Stamp has been executed.	The same Stamp as for the Bond or other Instrument, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
Where there are more Deeds than one required to execute the mortgage in the manner desired by the parties, then for every other Deed than the principal Deed, provided the original Deed has been duly stamped.	The same Stamp as for the principal Deed, if of value not exceeding eight Rupees; in other cases a Stamp of eight Rupees.
41. Mortgages, assignments or acknowledgements granted for loans or advances made on the deposit of Government Securities, bullion, plate, jewels or other goods,	The same Stamp as for Promissory Notes.
42. Partitions by private agreement or made by Public Officers of estates or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for every such sharer's copy of the deed of partition—	
	Rs. As.
When the sharer's portion does not exceed one hundred Rupees in value	0 8
Above Rs. 100 and not exceeding Rs. 200	1 0
" 200 " 400	2 0
" 400 " 600	4 0
" 600 " 800	6 0
" 800 " 1,000	8 0
And for every additional four hundred Rupees, or part thereof.	2 0



## SCHEDULE A—(Continued).

## PROPER STAMPS.

When the subject of the partition, consisting either wholly or in part of other property than money, any money, not being part of such subject, is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject.

A Stamp of value equal to the joint values of the Stamp which would have been required had the subject of partition been actually divided with the just proportion, and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.

43. Policy of Assurance or Insurance, or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life or lives, or upon any event depending upon any life or lives—

For every sum of one thousand Rupees and also for each and every fractional part of one thousand Rupees.

Rs. As.

0 8

44. Policy of Insurance of any ship, vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured, if the whole sum insured shall not exceed one thousand Rupees.

0 8

If the sum insured exceed one thousand Rupees, then for every one thousand Rupees, and also for any fractional part of one thousand Rupees whereof the same shall consist.

0 8

Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rupees.

1 0

If the sum insured exceeds one thousand Rupees, then for every one thousand Rupees, and also for any fractional part of one thousand Rupees whereof the same shall consist.

1 0

Promissory Notes... See Bills of Exchange.

45. Promissory Notes for the payment of any sum by instalments, that is Kistbundies, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain.

The same Stamp as for a Bond for the payment of the whole amount.

Rs. As.  
2 0

46. Protest of any Bill or Exchange or Promissory Note for any sum of money, or any Notarial Act not otherwise charged or exempted in this Schedule.

## SCHEDULE A—(Continued).

## PROPER STAMPS.

47. Receipts or discharges given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, amounts to ten Rupees and does not exceed fifty Rupees.

Rs.	As.
0	$\frac{1}{2}$

If the sum exceeds fifty Rupees	...	...	0	1
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*Exemptions.**(For the Presidency of Bengal).*

Receipts or discharges with respect to the rent of land paying Revenue to Government, granted, to any ryot or other actual cultivator for the rent of land tilled by him.

*(For the Presidencies of Madras and Bombay).*

Receipts or discharges with respect to the rent of land paying Revenue to Government, granted to any tenant for the rent paid by him.

*General Exemptions.*

Receipts or discharges written upon Promissory Notes, Bills of Exchange, Drafts, or Orders for the payment of money, duly stamped.

Letters sent by the post acknowledging the arrival of any Promissory Notes, Bills of Exchange, or other securities for money.

Receipts or discharges written upon or contained in any Mortgage Deed, or other security, or any Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby charged.

Receipts given for money deposited in any Bank, or in the hands of any Banker, to be accounted for, whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to receipts or acknowledgments for sums paid or deposited for or upon letters of allotment of shares, in respect of calls upon any scrip or shares of or in any Joint Stock or other Company, or proposed or intended Company, which such last-mentioned receipts or acknowledgments, by whomsoever given, shall be liable to the Duty charged upon receipts.

48. Schedules referred to in any Agreement, Lease, 10 Rupees. Bond, Deed, or other Instrument, for every thousand words, on part thereof,

## SCHEDULE A—(Concluded).

## PROPER STAMPS.

49. Settlements, Marriage Settlements, &c., namely, any Deed or Instrument whereby any sum or sums of money, or any Government Securities, or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, in any manner whatsoever.

The same Stamp as for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—See Section XIV of the Act.

*Exemption.*

Wills, Testaments, and the like, together with Deeds merely declaratory of trust or appointment, or apportionment or otherwise, in execution of powers, or pursuant to any previous Settlement, Deed, or Will.

## GENERAL EXEMPTION AND RULE.

Deeds, Instruments, and Writings of any kind, in which Government, or any Board, Commission, Court, or Public Officer may, in a public capacity, be a party, do not require Stamps.

NOTE :—The foregoing exemption does not extend to Deeds, Instruments, and Writings executed to or by the Court of Wards, Local Agents, or Officers acting under their authority, or to, or by any Administrator General; neither does it extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees or orders of Court, in which cases the purchasers shall be required to pay, along with the purchase-money the price of the requisite Stamp, or else provide such Stamp, and shall receive from the Officer conducting the sale a Deed of Sale (Bynamah) executed on the proper Stamp.

Any deed, Instrument, or Writing required by the foregoing Schedule to be stamped, may be written on one or more Stamps, if the value of the Stamps used amounts to the value required by the Schedule.

Deeds for Securing gifts or dispositions made by previous Settlements, Deeds, or Wills.\*

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\*Every facility should be given to persons who may engross writings on a stamp of insufficient value, within the first three months from the time of Act XXXVI of 1860 coming into operation, to amend their error without penalty, and no prosecution should be permitted against any person for any breach of the law committed within the same period, if there be any ground for presuming that he acted inadvertently and without knowledge of the law.—(Government of India to the Government of Bombay, 13th October 1860, para 2.)

## APPENDIX V-A.

### STAMP REGULATIONS.

#### STAMP-DUTIES, BENGAL PRESIDENCY.

##### REG. VI OF 1797.

*In force from 10th April, 1797, 1st January, 1798, up to 30th September, 1800.*

**Sec. 16—**(*Operating from 10th Apr., 1797.*)—All Original Deeds of Contracts, Bargains, Sales, Mortgages, Releases, Assignments, and other Conveyances in writing, or instruments excepting original deeds relating to marriage settlements, which are not required to be written on stamp paper and the original obligations for the payment of money, hereafter specified in S. 21, which are to be written on the paper therein directed; and

All Copies of the deeds and instruments above described, including copies of deeds relating to marriage-settlements, and the aforesaid obligations for the payment of money, which shall be prepared by the Cauzy of any place, or his officers, or any Mufy, and which are to be attested with his or their seals or signatures, shall be written on stamp paper of certain sizes and descriptions with which the Cauzies and Mufies will be furnished. The parties at whose application such original deeds or instruments, or the copies of them, may be prepared and attested, shall pay to the Cauzy or the Mufy, previous to his delivering the documents, at the rate of *one sicca rupee, or eight annas, or four annas or two annas*, according as may be specified in the stamp affixed to the paper used, for every roll or sheet, or part of a roll or sheet, so stamped, which may be expended in preparing such original deeds or instruments, or the copies of them.

The respective stamps shall have an inscription to the following effect, in the Persian and Bengal languages and characters, and in the Hindustanee language and Nagree character:—

	<i>Law Papers;</i>
{	"One Rupse" or "eight
	annas" or "four annas"
	or "two annas."

**Sec. 21.—**(*Operating from 1st Jan., 1798.*)—After the 31st Dec., 1797, corresponding with the 19th Poose 1204, Bengal era; the 27th Poose 1205, Fussily; the 19th Poose 1205, Willaity; the 27th Poose 1854, Sumbut; and the 19th Rajub 1212, Hijeree—

All Original Bonds (tumassooks), Promissory-notes (teeeps), or other written obligations, save and except bills-of-exchange (hoondies), for the payment of a sum of money exceeding fifty rupees of whatever currency, exclusive of any interest which may be stipulated to be paid thereon, shall be written on stamp paper, for which the following rates, to be specified in the stamps, shall be paid—

If the obligation be for the payment of a sum exceeding Rs. 50, but not above	... Rs. 100	Four annas.
If above Rs. 100, but not above	... „ 1,000	Eight annas.
For any sum above	... „ 1,000	One rupee.

The respective stamps for the paper to be used in writing such obligations shall have an inscription to the following effect, in the Persian and Bengal languages and characters, and in the Hindustanee language and Nagree character :—

Obligations for sums above fifty rupees, and not above one hundred	...	...	...	"Four annas."
Obligations for sums above a hundred rupees, but not above a thousand	...	...	...	"Eight annas."
Obligations for sums above one thousand	...	...	...	"One rupee."

**Sec. 25.**—*Sunnuds* to all *Cauzies* and to all authorized *Vakeels* in the several Courts of Judicature to be on stamped paper to the following effect in the Persian language and character :—

<i>Sunnud of the office of Cauzy</i>	...	...	"Twenty-five rupees."
<i>Sunnud of the office of Vakeel</i>	...	...	"Twenty-five rupees."

### REG. VII OF 1800.

*In force from 1st October, 1800, up to 16th April, 1807.*

**Sec. 3.**—All Original Obligations for the payment of money, whether Bonds, Promissory-notes, Drafts, Bills-of-Exchange, or of any other denomination whatever, which may be executed or drawn within the provinces of Bengal, Behar, Benares, or the Company's territory in Orissa after the date specified in S. 2 (30th Sep., 1800) of this regulation for the payment of a sum of money exceeding Rs. 16 (sicca), exclusive of interest, excepting obligations which may be executed or drawn on the part of Government or for money payable to Government, and also excepting obligations for the rent of land paying revenue to Government, shall be written on stamp paper, subject to the following rates of duty, to be specified in the respective stamps :—

1. If the obligation be for a sum exceeding Rs. 16, and not above	Rs. 64	Two annas.
2. If exceeding Rs. 64, and not above	125	Four annas.
3. If exceeding Rs. 125, but not above	250	Eight annas.
4. If exceeding Rs. 250, but not above	500	One rupee.
5. If exceeding Rs. 500, but not above	1,000	Two rupees.
6. If exceeding Rs. 1,000, but not above	2,000	Four rupees.
7. If exceeding	2,000	Eight rupees.

The above stamps to be inscribed '*Money Papers*' in the Hindustanee language and Nagree character.

**Sec. 4.**—All Acknowledgments for the Receipt of Money whereby any sum exceeding Rs. 16 (sicca) shall be acknowledged to have been paid, received, accounted for, balanced, discharged, released, or in any manner satisfied; or which shall in any manner signify such acknowledgment (with an exception to all acknowledgments granted on the part of Government, and also with an exception to all acknowledgments for the rent of land paying revenue to Government); shall be written on stamp paper. Subject to the rates of duty specified in the preceding section upon obligations for the payment of money, and the stamps for the several receipts shall have the same inscription.

**Sec. 5.**—All Original Deeds, for the Sale, Gift, Devise, or other Transfer of property, real or personal;

All Deeds of Mortgage, Assignment, Release; and

All other Deeds of Contract and Agreement; as well as

All other Legal instruments, of whatever denomination (with the exceptions hereafter noticed) which may be executed within the provinces of Bengal, Behar, Benares, or the Company's territory in Orissa after the date specified in S. 2 (30th Sep., 1800);

and also all Copies of such deeds and instruments which may be prepared after the said date as legal vouchers whether by a Gauzy, Mufly, or any other person, shall be written on stamp paper subject to a duty of *four annas*; *eight annas*; *one rupee*; or *two rupees*:

According to the size of the paper which may be used for such original deeds or instruments or the copies of them.

The several stamps shall have an inscription in the Persian and Bengali languages and characters, and in the Hindustanee language and Nagree character to the following effect:—

Law papers	...	...	"Two rupees."
or	...	...	"One rupee."
or	...	...	"Eight annas."
or	...	...	"Four annas."

*Exceptions.*—All contracts or engagements of whatever description which may be entered into for the provision of any part of the Company's investment, or for the manufacture of salt or opium:

As well as generally all deeds to which Government may be one of the contracting parties are exempted; and the originals and copies of such are also exempted unless otherwise provided for by any special Regulation.

### REGS. XIII OF 1806 and VIII OF 1807.

*In force from 16th April and 10th July, 1807, to 1st January, 1810.*

Attempts having been made to imitate the stamps established by Regulations VI and X of 1797, VI and VII of 1800, XI of 1801, XL and XLII of 1803, and to issue and dispose of forged stamp-papers; it is necessary for the security of the public revenue derived from stamp-duties to adopt further rules for the purpose of more effectually preventing the fabrication and use of forged stamp paper.

After the receipt of this regulation, the Superintendent of the Stamps at Calcutta, appointed under Ss. 12 and 13, Reg. VI, 1797, and S. 14, Reg. XLIII, 1803, or such officer acting under the Superintendent of Stamps as may be specially authorized by Government for this purpose, previously to issuing any stamp paper shall endorse his written official signature upon the back of each paper, and shall specify or cause to be specified thereon the date on which it shall be so authenticated.

### REG. VII OF 1809.

*In force from 1st January, 1810, up to 1st May, 1814.*

Sec. 2.—Such parts of secs 2, 10 and 11, Reg. XIII, 1806, and S. 4, Reg. VIII of 1807, as require all stamp paper to be endorsed with the written official signature of the Superintendent of Stamps or other authorized officer under him are hereby rescinded (4th Aug., 1809); Provided, however, that such rescission shall not be construed to prevent the sale of any stamp paper already issued, or which may have already received the authentication of the Superintendent or of his covenanted assistants until the 1st of January, 1810.

Existing stamp-duties were maintained.

Sec. 3.—New stamps were to be used after 1st January, 1810, for all instruments, bearing one inscription, *viz.*:—"Law et Cætera Papers."

Sec. 4.—Stamp-duties on Custom House passes were abolished.

Sec. 6.—Stamp-duties on Sunnuds of Vakeels were also repealed.

## REG. XII OF 1810.

*In force from 4th May, 1810, up to 1st May, 1814.*

Whereas by S. 2, Reg. VII, 1809, the rule which had been previously in force requiring the signature of the Superintendent or his officers to be affixed on all stamp paper, was rescinded, with a provision that such a rescission should not be construed, to prevent the sale of any stamp paper which might have already been so authenticated, until the 1st Jan., 1810; and whereas any limitation as to time with respect to the sale of stamp paper so authenticated is unnecessary; the following rules have been enacted, to be immediately in force.

All stamp paper which may still remain in store, authenticated according to the rules existing previously to the enactment of Reg. VII, 1809, shall be admitted and filed in the Courts of Justice, in the same manner as if those papers had not received such authentication.

## REG. I OF 1814.

*In force from 1st May, 1814, up to 1st February, 1815.*

**Sec. 11.**—Every Bond, Promissory-note, Bill-of-Exchange, Letter of Credit or other obligation for the payment of money;

Every Receipt or Acquittance whereby any sum of money or demand shall be acknowledged to have been paid, received, liquidated, discharged, accounted for, or in any manner satisfied;

Every Deed of Gift, Sale, Devise, or other Transfer of property, real or personal;

Every Lease, Deed of Mortgage, or other limited assignment of land;

Every Deed of Contract (declared by Reg. XXVI of 1814, S. 26, to include Kabeennamahs or Deeds of Marriage Settlement), Partnership, Agreement, Security or engagement, which may be executed within the provinces subject to the Presidency of Fort William in Bengal; shall be written on paper (or some other material) impressed with the Government stamp, the value of which shall be regulated as follows:—

If the Bond or other Instrument be for a sum not exceeding Rs. 16, or if the value of the property transferred or otherwise affected by it shall not exceed Rs. 16, the Deed shall be executed on stamp paper of the value of ... One anna.

If above Rs.	16	and not exceeding Rs.	64	Two annas.
"	64	"	125	Four annas.
"	125	"	250	Eight annas.
"	250	"	500	One rupee.
"	500	"	1,000	Two rupees.
"	1,000	"	2,000	Four rupees.
"	2,000	"	5,000	Eight rupees.
"	5,000	"	10,000	Sixteen rupees.
"	10,000	"	20,000	Thirty-two rupees.
"	20,000	"	50,000	Fifty rupees.
"	50,000	"	1,00,000	One hundred rupees
"	1,00,000	...	...	One hundred and fifty rupees.

**Sec. 12.**—Every Lease and its Counterpart (*pattah* and *cabookat*), or other engagement contracted between landlord and tenant;

Every Receipt (*dakelah*) or other Acknowledgment for the payment of rent is required to be written on paper bearing the prescribed stamp, supposing that such Lease, Receipt, or other Instrument relate to lands held exempt from the payment of

revenue to Government; but instruments of the correspondent descriptions, which have relation to lands subject to the payment of revenue to Government, need not be written on stamp paper.

Sec. 4.—No stamp to be considered valid until the paper, parchment leaf of the *taur tree* (*taur-pattah*) or other material on which the stamp had been impressed had received the prescribed counter stamp at the general treasury.

Persons desirous of having any instrument executed on vellum, parchment, or any other material instead of paper, or *taur-pattah* were entitled to have the same stamp on paying the established duty.

Sec. 5.—Authenticated Copies of documents required			
for use or reference	...	...	... Eight annas.

# REG. XXVI OF 1814.

*In force from 1st February, 1815, up to 30th December, 1824.*

Existing duties (*see Reg. I, 1814*) were maintained, and the following rules added:—

Sec. 18.—All Authenticated Copies of the documents specified in sec. 11, Reg. I of 1814, which may be prepared as legal vouchers by a Cauzy, Muttý, or other authorized person, shall be written on stamp paper.

According to the rates prescribed for the originals of such deeds.

Any copies not written on such paper will not be admissible in evidence under sec. 9, Reg. I of 1814.

Sec. 19.—Security-Bonds not being for a specific amount, and all Deeds of Contract, Partnership, Agreement, and engagements of whatever nature which may not relate to a specific sum of money, or to a specific value, so as to make it practicable to apply to them the table of rates stated in sec. 11, Reg. I, 1814, are required to be written on stamp paper of the value of

One rupee.

Under the penalty declared in sec. 9, Reg. I, 1814.

Sec. 26.—Doubts having arisen whether Kabennmahs, or Deeds of Marriage Settlement, are to be written on stamp paper according to the table of rates contained in sec. 11, Reg. I, 1814, it is hereby declared that the provisions of that section were and are intended to be applicable to Deeds of Marriage Settlement, in common with other deeds of contract for a specific amount.

# REG. XVI OF 1824.

*In force from 30th December, 1824, up to 16th June, 1829.*

Agreement or any Minute or Memorandum of an Agreement, concerning any matter or thing of the value of 500 rupees or upwards, nor otherwise charged in this schedule nor expressly exempted from all stamp-duty, whether the same be only evidence of a contract, or obligatory upon the party.

Sa	Rs.	As.
	8	0

## Exemptions.

Memorandum of Agreement for the hire of labour.

Ditto for the sale of goods under the value of Rs. 500 and all agreements carried on by letter, and the like between merchants and other persons residing 40 miles from each other.

Assignments, if not of the nature of Conveyances and Settlements not specially exempted	...
---	-----

Sa	Rs.	As.
	8	0



**Bills-of-Exchange, Drafts, Promissory-notes, Hundees, Teeeps, Burats, or other order or obligation for the payment of money payable (if payable within the provinces subordinate to the Presidency) at sight, or at any stated period, not exceeding three months after date, or 90 days after sight (not being a deed, instrument, or writing bearing the attestation of one or more witness), together with all Bills-of-Exchange payable out of the said Provinces at whatever date—**

			Sa	Rs.	As.
If for a sum of money not exceeding	Rs.	25	0	1	
Above Rs.	25 and not exceeding	50	0	2	
"	50	100	0	4	
"	100	200	0	8	
"	200	400	0	12	
"	400	800	1	0	
"	800	1,600	1	8	
"	1,600	3,000	2	0	
"	3,000	5,000	2	8	
"	5,000	10,000	4	0	
"	10,000	20,000	6	0	
"	20,000	30,000	8	0	
"	30,000	50,000	12	0	
"	50,000	1,00,000	16	0	
"	1,00,000	...	20	0	

Promissory-notes written on paper of the above value shall not be re-issued after payment.

Promissory-notes intended to be re-issued are chargeable as follows—

			Rs.	25	0	2
If for a sum not exceeding			Above Rs.	25 and not exceeding	50	0
"	50	100	"	100	0	4
"	100	200	"	200	0	8
"	200	400	"	400	0	12
"	400	800	"	800	1	0
"	800	1,600	"	1,600	1	8
"	1,600	3,000	"	3,000	2	0
"	3,000	5,000	"	5,000	2	8
"	5,000	10,000	"	10,000	4	0
"	10,000	20,000	"	20,000	6	0
"	20,000	30,000	"	30,000	8	0
"	30,000	50,000	"	50,000	12	0
"	50,000	1,00,000	"	1,00,000	16	0
"	1,00,000	...	"	...	20	0
					32	0

*Note.*—The Governor-General in Council reserves to himself the power of admitting any Bank or Company to compound for the stamp-duty chargeable on the Notes issued by it. Notice of such arrangements to be given in the *Government Gazette*.

**Foreign Bills-of-Exchange, drawn in sets for every Bill of each set,**

			Sa	Rs.	As.
Where the sum payable does not exceed	Rs.	400	0	8	
More than	Rs.	400 but not exceeding	800	0	12
"	800	"	1,600	1	0
"	1,600	"	3,000	1	8
"	3,000	"	5,000	2	0
"	5,000	"	10,000	2	8
"	10,000	"	20,000	4	0
"	20,000	"	30,000	6	0
"	30,000	"	50,000	8	0
Exceeding	50,000	...	...	12	0

#### *Exemptions.*

Bills-of-Exchange drawn, and Promissory-notes issued, by Government Officers, having authority to draw Bills on the Government Treasuries, or to issue Promissory-notes, or other acknowledgments on account of Government ;

All Drafts or Orders for the payment of any sum of money, to the bearer on demand, drawn upon any Bank, Banker or Agent, residing within 20 miles of the place where such draft or order shall be issued, such place being specified on the face of the draft.

<b>Bills of Lading</b> of or for any goods to be exported ...	Sa Rs. A.
<b>Bills of Sale.</b> An absolute Bill of Sale.	1 0
	See Conveyances.
<b>Bill of Sale</b> as a security being the principal or only Deed whereby the property is conveyed.	See Mortgage.
<b>Bill of Sale</b> as a security being merely a collateral one with some Deed or Instrument that has paid the <i>ad valorem</i> duty prescribed for Conveyances.	8 0

**Bonds, *Tumusuks*, or other Deed or Instrument, or other written obligation for the payment of money, bearing the attestation of one or more witnesses, Promissory-notes, or other Obligations as aforesaid, payable at a period exceeding three months after date or 90 days after sight—**

For any sum not exceeding	Rs.	25	Sa Rs. As.
Above	Rs.	25 and not exceeding	50
"	50	"	100
"	100	"	200
"	200	"	300
"	300	"	500
"	500	"	1,000
"	1,000	"	2,000
"	2,000	"	3,000
"	3,000	"	5,000
"	5,000	"	10,000
"	10,000	"	20,000
"	20,000	"	30,000
"	30,000	"	50,000
"	50,000	"	75,000
"	75,000	"	1,00,000
"	1,00,000	"	1,50,000
"	1,50,000	"	2,00,000
"	2,00,000	...	...
<b>Bonds concerning Respondentia and Bottomry.</b>			<i>Ad valorem</i> as above.
Bonds given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery or accounting for any matter or thing capable of being valued—			Shall be charged at the rate of the amount engaged to be paid or accounted for, or at the value of the thing to be delivered or transferred.
<b>Bonds for annuities for an indefinite period such as life annuities, &amp;c.</b>			Shall be charged at the rate of 10 times the yearly payment.
Bonds where the amount of the money to be secured or ultimately recovered shall be uncertain and unlimited ...			Sa Rs. As.
Where the amount is limited to a certain sum ...			150 0
			The same as on a Bond for such limited sum.
Bonds taken as collateral security, with some Deed or Instrument that has paid the <i>ad valorem</i> duty prescribed for Conveyances or Money Bonds or as security for the performance of any other contract, covenant, or agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand ...			Sa Rs. As.
<b>Bonds of indemnity</b> ...			8 0
Bonds for due execution of an office or work, and all other Bonds not otherwise charged or exempted from duty ...			8 0

*Exemptions.***Arbitration Bonds.**

Bonds given to, or by the officers of Government on account of any matter or thing of or belonging to the Government in its political or territorial capacity.

	Sa	Rs.	As.
Charter-parties or any Agreement or Contract for the charter of any ship or vessel, or any memorandum, letter or other writing, between the Captain, Master or owner of any ship or vessel, and any other person for or relating to the freight or conveyance of any money, goods or effects on board of such ship or vessel	...	...	...
	8		0

*Exemptions.*

Charter-parties of ships or vessels taken up by Government for the conveyance of troops or military stores, or for other political purposes.

	Sa	Rs.	As.
Contracts or Deeds, if not otherwise charged nor exempted from duty	...	...	...
Co-Partnership, Deeds of	...	...	...
Composition-Deeds or other instruments of composition between a debtor or debtors, and his, her or their creditors	...	...	...
	8		0

Conveyances, whether grant, disposition, assignment, transfer, renunciation, or of any other kind or description whatsoever upon the sale of any lands, tenements, rents, annuities, or other properties real or personal, heritable or moveable or of any right, title, interest or claims in, to, out of, or upon any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person by his or their direction.

Where the purchase or consideration money therein expressed or denoted shall not exceed	Rs.	Sa	Rs.	As.
Above Rs. 50 and not exceeding	50		0	8
" 100	100		1	0
" 200	200		2	0
" 500	500		4	0
" 1,000	1,000		8	0
" 2,000	2,000		12	0
" 3,000	3,000		16	0
" 5,000	5,000		20	0
" 8,000	8,000		32	0
" 12,000	12,000		40	0
" 20,000	20,000		50	0
" 30,000	30,000		64	0
" 50,000	50,000		80	0
" 1,00,000	1,00,000		100	0
" 2,00,000	2,00,000		150	0
And for every further lakh of Rupees beyond two lakhs	...	...	100	0

*Note.*—Where of several Deeds, Instruments or Writings a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on paper, parchment, vellum or the like stamped for the prescribed *ad valorem* duty; provided, however, that in all cases where there are more Deeds than one, all other Deeds than the principal shall be charged with a stamp-duty of eight Rupees, and all such Deeds shall specify by their contents which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed in the manner and on material stamped as required.

*Exemptions.*

All Grants, Leases, Sales, or the like, wherein Government in its political or territorial capacity is a party.

*Note.*—This exemption shall not extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees of Court in which cases the purchaser shall be required to pay the prescribed duty along with the purchase-money, and shall receive from the officer conducting the sale a Deed of Sale executed on paper impressed with a corresponding stamp.

All transfers of subscriptions to any of the Government Loans or other Government Securities, also of Bank shares.

**Copies.** Copy in any manner authenticated or declared to be a true copy or made for the purpose of being given in evidence as a true copy of any Bond, Deed, or Instrument of Agreement, Contract, Conveyance or of any Deed or Instrument whatsoever chargeable with a stamp-duty.

Where such copy shall be made for the security or use of any person being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument.

The same duty as for the original instrument,

Where such copy shall be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument ... ..

Sa Rs. As.

8 0

Likewise any copy authenticated, or made as aforesaid of any schedule, receipt or other matter put or endorsed on or annexed to any such agreement, contract, bond, deed, or other instrument aforesaid ... ..

8 0

#### *Exemptions.*

Copies made for the private use only of any person having the custody of the original instrument, or of his or her attorney or solicitor.

Copies of papers, which public officers are directed by any general Regulation to make, require, or furnish, not specially declared chargeable with stamp-duty.

*Note.*—Copies of records, accounts or other documents required by individuals from the public offices, not especially charged with or exempted from duty, shall be charged in the manner and subject to the conditions prescribed in S. 19, Reg. I, 1814, and other provisions of the existing regulations.

Deeds of any kind not otherwise particularized in this schedule ... ..

Sa Rs. As.

8 0

**Exchanges.** Any Deed, whereby any real property shall be conveyed or surrendered in exchange for other property—

If no sum of money shall be paid, or agreed to be paid, for equality of exchange ... ..

8 0

If any sum of money be paid, or agreed to be paid, for equality of exchange.

The same *ad valorem* duty as for a Conveyance for such sum. Shall be charged on the amount advanced at the rate of Bonds or other obligations for the payment of money payable at a period exceeding three months after date.

**Engagements** to cultivate, provide, or deliver indigo plant, or to produce, manufacture, provide, or deliver, any other article of commerce, in consideration of advances made—

**Leases.** Any lease made in perpetuity or for a term of years or period determinable with one or more lives, or otherwise contingent in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent.

The same duty as for a Conveyance, or sale for a sum of the amount of such consideration.

Any Lease of Lands, Houses or other real property at a yearly rent, without any payment of any sum of money, by way of fine or premium—

Where the yearly rent shall exceed Rs. 12, but shall not exceed Rs. 24

Exceeding Rs. 24, but not exceeding

50	Rs. 24
100	50
250	100
500	250
1,000	500
2,000	1,000
4,000	2,000
6,000	4,000
10,000	6,000
50,000	10,000
...	50,000

Sa Rs.	As.
0	8
0	12
1	0
2	0
4	0
8	0
12	0
16	0
20	0
32	0
64	0
80	0

Any Lease of Lands, Houses, or other real property stipulating for a yearly rent, and granted in consideration of a fine or premium.

The Counterpart of any Lease charged with a duty exceeding eight rupees shall likewise be executed on paper, vellum or parchment bearing a stamp of ...

Shall be charged with both *ad valorem* duties above provided.

Rs.	As.
4	0

#### Exemptions.

All Leases or Pottahs, when the annual rent shall not exceed twelve rupees.

All Leases or Pottahs given by authority of Government, or of the Board of Revenue, or other authority, exercising the powers of that Board, and of the Court of Wards; Pottahs, Kabulyats, and other instruments of contract relating to the rent of land executed between any Zemindar, Talukdar, Farmer, or other Sudder Malguzar, or any holder or proprietor of land exempt from the payment of Revenue, or any Mofussil Talukdar, Ijaradar, Kutkenadar, or other Lease holder, or the Gomashta, Factor or other Agent of such Zemindar or other person aforesaid on the one part, and a ryot or other actual cultivator on the other, for the land tilled by him.

*Note.*—All Leases, Pottahs, Kabulyats, or other similar instruments of contract between Zemindars, Talukdars or other holders, or proprietors of land, whether subject to the payment of Revenue to Government or otherwise, Farmers, Kutkenadars, Ijaradars, or other tenants, and any other Talukdar, Kutkenadar, Ijaradar, or other Lease-holder intermediate between the ryots or actual cultivators and the Sudder Malguzar or Lakerajdar, shall be written on stamp-paper of the value above prescribed.

Letters or Powers-of-Attorney, or Commission or Factory in the nature thereof.

Powers to perform any one special, that is to say, particular act, or the acts connected with one particular suit, case, or transaction, or sundry acts to be done after a manner specified in the instrument ...

General powers ...

Sa Rs.	As.
2	0
4	0

#### Exemptions.

Mukhtearnamahs executed by Native officers and soldiers belonging to the regular corps on the military establishment of the Presidency of Fort William.

Letters of License from Creditors to Debtors ...

Sa Rs.	As.
8	0

**Mortgages.** Any Deed of Mortgage or conditional sale, with or without possession, given of any lands, estate, or property, real or personal, intended as a security for money due or to be lent thereupon; also any deed or contract accompanied with a deposit of title-deeds to any property where the same may be made as a security for payment of money due are lent at the time.

Shall be charged after the same manner and at the same rates as if in lieu of such deed of mortgage or the like, a bond had been taken for the same due or lent at the time.

Deeds of Mortgage, or the like given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued.

Deeds of mortgage given for the security of annuities for an indefinite period, such as life annuities and the like.

Where the total amount secured by such mortgage is unlimited ... ..

Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum.

*Note.*—Where a bond may have been already taken for the amount secured or where from other cause the mortgage shall act merely as collateral security to some other transaction, already charged with the *ad valorem* duty, thereupon, the same being specified in the body of the Deed of Mortgage ... ..

Likewise in case of there being more deeds than one required to execute the mortgage, in the manner desired by the parties, the principal deed only shall be charged with the *ad valorem* duty, and all other deeds connected with the same transaction ... ..

Acknowledgments or Promissory-notes granted to the Treasurer or other officer of the Bank of Bengal, on account of the Bank, or to any private banker or agent for loans or advances made on the deposit of Government Securities, Bullion, Plate, Jewels, or other Goods and payable within three months after date.

If payable at a date exceeding three months ...

Shall be charged at the rate of the total amount assured or of the *bona fide* value.

Shall be charged at the rate of 10 times the annual payment.

Sa. Rs.	As.
150	0

At the rate of such limitation.

Sa. Rs.	As.
---------	-----

8	0
---	---

8	0
---	---

Shall be charged as Promissory notes,

Shall be charged as deeds of mortgage.

#### Exemptions.

Mortgages to which Government in its political or territorial capacity, or the officers of Government acting for the Government in matters relating to its political or territorial concerns, are parties.

**Partition.** Any Deed of Partition of real or personal property adjusted by mutual agreement amongst co-heirs, coparceners, or the like ... ..

And if any sum or sums of money shall be paid, or agreed to be paid, for equality of partition.

The principal Deed stipulating for such payment shall be charged with *ad valorem* duty prescribed for Conveyance or Sale for an equal sum.

Sa. Rs.	As.
---------	-----

8	0
---	---

On partition of estates made by Collectors of land-revenue whether on application of the parties or any of them, or in execution of a decree of Court, if the value of the portion allotted to each sharer shall exceed Rs. 800, a stamp-duty of the above amount shall be charged on each copy of the paper of partition or other title-deed which may be taken out by any of the parties after the partition shall have been approved by the Revenue Board.

Where the portion of each sharer shall not exceed Rs. 800, the following rate of duty shall be chargeable :

If the value of the portion shall not exceed	Rs. 100
More than Rs. 100, but not exceeding	... 300
" 200	... 400
" 400	... 600
" 600	... 800

Sa. Rs.	As.
---------	-----

0	8
---	---

1	0
---	---

2	0
---	---

4	0
---	---

6	0
---	---

**Policy of Assurance,** or Insurance or other instrument, by whatever name the same shall be called, whereby an insurance shall be made upon any life or lives, or upon an event depending upon any life or lives.

		Sa. Rs.	As.
Where the sum insured shall not exceed	Sa. Rs. 5,000	4	0
Exceeding Rs. 5,000, but not exceeding	10,000	8	0
" 10,000, " "	20,000	12	0
" 20,000, " "	50,000	16	0
" 50,000, " "	...	20	0

Policy of Insurance of any ship, vessel, sloop, lighter, boat or the like, any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat or the like, or upon any other interest, relating thereto or upon any voyage.

		Sa. Rs.	As.
When the premium shall not exceed two per cent on the sum insured,	If the sum insured shall not exceed Rs. 1,000 ...	0	8
	If the sum insured exceed Rs. 1,000, then for every Rs. 1,000, and also for any fractional part of 1,000 rupees whereof the same shall consist ...	0	8
	If the whole sum shall not exceed Rs. 1,000 ...	1	0
Where the premium shall exceed two per cent on the sum insured.	If the sum exceeds Rs. 1,000, then for every Rs. 1,000, and also for any fractional part of 1,000 rupees whereof the same shall consist ...	1	0
	...	1	0

#### Promissory-Notes.

Payable to the bearer on demand, at sight, or at any stated period not exceeding three months after date or 90 days after sight.

Payable at a period exceeding three months after date or 90 days after sight.

For the payment of any sum by instalments or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain.

All receipts for money deposited in any Bank or in the hands of any banker or agent, if the same shall stipulate for the payment of interest upon the money so deposited or in hand, shall be deemed and taken to be Promissory-notes.

Receipts or Discharges given for or upon the payment of any sum of money—

Not exceeding Rs. 32	...	...
Exceeding Rs. 32, not exceeding Rs.	100	100
" 100	"	200
" 200	"	500
" 500	"	1,000
" 1,000	"	2,000
" 2,000	"	3,000
" 3,000	"	5,000
" 5,000	"	8,000
Above 8,000	"	...
Also for a receipt in full of all demands	...	...

See Bills-of-Exchange.

See Bonds.

The same duty as would be chargeable on a Bond for the whole amount.

Sa. Rs.	As.
0	1
0	2
0	4
0	8
0	12
1	0
1	8
2	0
2	8
4	0
4	0

And any instrument, note, memorandum or writing given upon the payment of money, whereby any money, debt or demand, or the part thereof therein specified shall be expressed or acknowledged to have been paid, settled, or otherwise satisfied shall be deemed to be a receipt for the amount so declared to be paid or satisfied ;

And if any such instrument or other writing shall contain a general acknowledgment of the settlement of debts, accounts or other demands without specifying the amount thereof, such instrument or writing shall be deemed and taken to be a receipt in full of all demands and charged accordingly.

And if payment be made by delivery of a bill or Bills-of-Exchange, Draft or Drafts Promissory-notes, or the like securities of money, the receipt or acknowledgment given thereupon shall be deemed to be a receipt within the meaning of this Schedule.

*Exemptions.*

Receipts for money paid or received by any officer of Government on account of Government.

Receipts or discharges for the rent of land granted by any Zemindar, Talukdar, Farmer or other Malguzar, or by any holder or proprietor of land held exempt from the payment of Revenue, or by any Mofussil Talukdar, Ijaradar, Kutkenadar, or other Lease-holder, or by the Gomastha, Factor or other Agent of such Zemindar, or other person aforesaid, to a ryot or other actual cultivator for the rent of land tilled by him.

*Note.*—Receipts or discharges granted by any Zemindar, Talukdar, or other holder or proprietor of land, or by any Farmer, Kutkenadar, Ijaradar or other Lease-holder, intermediate between the ryots or actual cultivators, and the Sudder Malguzar or Lakerajdar, shall be written on stamped paper of the value of the above prescribed.

Receipts or discharges given for the purchase-money of any Government Securities or shares of the Bank of Bengal.

Receipts and discharges given for money deposited in any Bank or with any agent, to be accounted for on demand, provided no interest be stipulated as payable thereon.

If interest be stipulated such receipt shall be chargeable as a Promissory-note.

Receipts or discharges written upon Promissory-notes, Bills-of-Exchange, Drafts or Orders for the payment of money duly stamped.

Letters by the post acknowledging the arrival of any Promissory-notes, Bills-of-Exchange, or other Securities for money.

Receipts or discharges written upon or contained in any Bond, Mortgage, or other Security, or any Conveyance, Deed or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity thereby secured.

**Settlements.** Any Deed or Instrument whereby any sum or sums of money, or any Government Securities, or other property, real or personal shall be settled or agreed to be settled upon or for the benefit of any person or persons in any manner whatsoever.

Shall be charged with the *ad valorem* duty chargeable for a Bond for the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate at the rate of Rs. 100.

**Deeds of Gift and Dower** whether to take effect on the instant or at a future period determinate or indeterminate.

Chargeable as a Deed of Settlement.

*Exemptions.*

Wills, Testaments and the like, together with Deeds merely declaratory of trust pursuant to any previous Settlements, Deed, or Will.

*General Exemptions.*

Deeds, Instruments, and Writings of any kind in which Government or any Board, Commission, Court, or public officer, may, in a public capacity, be a party, save and except Deeds, Instruments and Writings relating to matters of or belonging to the Commercial Department, shall not be chargeable with any stamp-duty.

**REG. XXVIII OF 1825.**

*In force from 25th August, 1825.*

This Regulation extended generally the operation of the Bengal Regulations to the territory acquired by Treaty from the Dutch on the 17th March, 1824, *viz.*, the settlement of Chinsurah, and the factories and lands held by the Dutch at Calcutta, Dacca



Fulta, Patna, and Balasore. It also provided for the admission in evidence as valid all deeds whether on stamp paper otherwise, that may have been regularly and legally executed according to the Dutch Law or established local usage' previous to 25th August, 1825.

### REG. X OF 1829.

*In force from 16th June, 1829, up to 1st October, 1860.*

#### SCHEDULE A.

1. Agreement, Ikrar or any Minute, or Memorandum of an agreement concerning any matter or thing, not otherwise charged in this Schedule, nor expressly exempted from all stamp duty, whether the same be only evidence of a contract or obligatory upon the party if relating to matters capable of valuation, and with the value stated.	To be charged as herein- under prescribed for Bonds of the same amount,
2. Agreement for a monthly or annual payment ...	To be estimated at the amount of 10 years' payment, or of the total sum secured, if less.
3. Agreement to perform any legal act, or for a purpose not restricted to, or specifying any amount.	To be executed on such stamp as the parties may determine, but no recovery can be made on the instrument in any Court of Justice of a larger amount than may be covered by the stamp at the rate prescribed in the Schedule for Bonds.

#### Exemptions.

Memorandum of Agreement for the hire of labour.

Ditto all Agreements carried on by letter through the public dawk between merchants and other persons.

4. Bills-of-Exchange, Drafts, Promissory-notes, Hundiess, Teeps, Burats and other orders or obligations for the payment of money, payable (if payable within the Provinces subordinate to this Presidency) at sight, or on demand, or at the periods specified below (not being deeds, instruments or writings bearing the attestation of one or more witnesses), together with all Bills-of-Exchange payable out of the said provinces at whatever date.

If for a sum of money not exceeding		Rs.	25	Sa. Rs.	As.	Sa. Rs.	As.
Above	Rs.	25 and not exceeding	50	0	1	0	2
"	50	"	100	0	2	0	4
"	100	"	200	0	4	0	8
"	200	"	400	0	12	1	0
"	400	"	800	1	0	1	8
"	800	"	1,600	1	8	2	0
"	1,600	"	3,000	2	0	2	0
"	3,000	"	5,000	2	8	4	0
"	5,000	"	10,000	4	0	6	8
"	10,000	"	20,000	6	0	8	0
"	20,000	"	30,000	8	0	12	0
"	30,000	"	50,000	12	0	16	0
"	50,000	"	1,00,000	16	0	20	0
"	1,00,000	...	...	20	0	25	0

5. Bills-of-Exchange, Promissory-notes, &c., intended to be re-issued.	Shall be charged as prescribed for Promissory-notes payable at a date exceeding three months.
6. Bills-of-Exchange, Promissory-notes, &c., of date exceeding one year.	To be charged as Bonds.

*Note.*—The Governor-General in Council reserves to himself the power of admitting any Bank or Company to compound for the stamp-duty chargeable on the Promissory-Notes issued by it. Notice of such arrangements shall be given in the *Government Gazette*.

#### *Exemptions.*

Bills-of-Exchange or Hundees for any sum of money if drawn *bona fide* from any place distant more than 100 miles from the place where the same or made payable, and not negotiated after acceptance, also Foreign Bills of Exchange drawn in sets.

Provided, however, that if any Bill or Bills-of-Exchange drawn in any part of the continent of India, and made payable in the provinces subject to this Presidency shall be negotiated therein after acceptance, or be in any way transferred after acceptance to a third party other than the acceptor and the payee of such Bill or Bills, the exemption shall not hold in respect to any such negotiated Bill or Bills, unless the same shall be taken to be stamped prior to such negotiation, or unless there be affixed to each Bill a copy of the same executed on paper stamped with the stamp to which such Bill is declared liable in this schedule.

#### *Exemptions.*

Bills-of-Exchange drawn and Promissory-notes, &c., issued by Government officers authorized to draw Bills upon the Government Treasuries or to issue Promissory-notes, or other acknowledgments on account of Government.

All drafts or orders for the payment of any sum of money to the bearer on demand, drawn upon any bank, banker, or agent, residing within twenty miles of the place where such draft or order shall be issued, such place being specified on the face of the draft.

#### *Wills of Sale.*—*See* Conveyance and Mortgage.

7. Bonds, Tumusooks, and other attested obligations for the payment of money, also Promissory-notes, and Bills-of-Exchange, Teeps, Burats, and the like of date exceeding one year.

		Sa.	Rs.	As.
If for any sum not exceeding	25			
	Above	Rs.	25 and not exceeding	
	50		50	0 2
"	100	"	100	0 4
"	200	"	200	0 8
"	300	"	300	1 0
"	500	"	500	2 0
"	1,000	"	1,000	4 0
"	2,000	"	2,000	6 0
"	3,000	"	3,000	10 0
"	5,000	"	5,000	16 0
"	10,000	"	10,000	20 0
"	20,000	"	20,000	32 0
"	50,000	"	50,000	40 0
"	75,000	"	75,000	64 0
"	1,00,000	"	1,00,000	70 0
"	1,50,000	"	1,50,000	80 0
"	2,00,000	"	2,00,000	100 0
"		"	.....	120 0
"		"		150 0

and a further duty of Rs. 100 for every sum of one lakh in excess of the said amount of two lakhs of rupees.

8. Bonds given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery or accounting for any matter or thing capable for being valued.

Shall be charged at the rate of the amount engaged to be paid or accounted for, or at the value of the thing to be delivered or transferred.

9. Bonds for annuities for an indefinite period, such as life annuities and the like.

Shall be charged at the rate of ten times the yearly payment.

10. Bonds, when the amount of the money to be secured or ultimately recovered shall be uncertain and unlimited.

May be executed on such stamp as the party may please, but no recovery shall be made thereon in any Court of Justice of a larger amount than is covered by the stamp.

11. Bonds for the due execution of an office or work *moohulkas* and the like, taken by individuals, and all other Bonds not otherwise charged or exempted from duty.

On optional stamp as above, with like condition.

12. When the amount is limited to a certain sum.

The same as on a Bond for such limited sum.

#### *Exemptions.*

##### *Arbitration Bonds.*

Bonds, given to, or by the officers of Government on account of any matter or thing of or belonging to the Government in its political or territorial capacity.

13. Security-Bonds, which may be taken by or by order of any Court, Collector or other Judicial of Revenue Authority, also *razeenamahs*, *sooleeknamahs*, and *ruffanamahs*, filed in any suit pending in a Court of Justice.

To be charged as specified and prescribed in Schedule B for law papers.

14. Charter-parties or any Agreement of Contract for the charter of any ship or vessel, or any memorandum, letter, or other writing, between the Captain, Master or owner of any ship or vessel, and any other person for or relating to the freight or conveyance of any money, goods, or effects on board of such ship or vessel.

If the amount payable under the Deed exceeds				
Rs. 1,000	...	...	...	...
If less than Rs. 1 000	...	...	...	...

Sa. Rs.	As.
8	0
According to the scale prescribed for Bonds.	

#### *Exemptions.*

Charter-parties of ships or vessels taken up by Government, for the conveyance of troops or military stores or for other political purposes.

15. Contracts and Deeds, if not otherwise charged or exempted from duty

As agreements.

16. Co partnership, Deeds of	...	...
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Sa. Rs.	As.
8	0

17. Composition-Deeds, or other instruments of composition between a debtor or debtors and his, her, or their creditors	...	...	...	...
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8	0
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18. Conveyances (*Kubalas*, *Bynamas*, *Hibanamas*) or deeds or instruments of any kind or description whatsoever executed for the sale or transfer for a consideration of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest or claim to, or, upon any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only deed, instrument, or writing, whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person by his or their directions.

When the purchase or consideration money therein expressed or denoted, shall not exceed ... .. Rs. 50			Sa. Rs.	As.
Above Rs.	50	and not exceeding	100	1 0
"	100	"	300	2 0
"	200	"	500	4 0
"	500	"	1,000	8 0
"	1,000	"	2,000	12 0
"	2,000	"	3,000	16 0
"	3,000	"	5,000	20 0
"	5,000	"	8,000	32 0
"	8 000	"	12,000	40 0
"	12,000	"	20,000	50 0
"	20 000	"	30,000	64 0
"	30,000	"	50,000	80 0
"	50,000	"	1,00,000	100 0
"	1,00,000	"	2,00,000	150 0
And for every further lakh of rupees beyond two lakhs...			100	0

*Note.*—When of several Deeds, Instruments or Writings a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on paper, parchment, vellum, or the like stamped for the prescribed *ad valorem* duty.

19. Provided, however, that in all cases where there are more Deeds than one all other Deeds than the principal shall be charged with a like stamp to the principal Deed if of value not exceeding Rs. 8 (which sum shall be the maximum duty on collateral Deeds), and all such collateral Deeds shall specify by their contents, which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed in the manner and on material stamped as required.

#### *Exemptions.*

All Grants, Lease, Sales, or the like, wherein Government in its political or territorial capacity, is a party.

*Note.*—This exemption shall not extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees of Court in which cases the purchasers shall be required to pay the prescribed duty along with the purchase-money, and shall receive from the officer conducting the sale a Deed of Sale (Bye-nama) executed on paper impressed with a corresponding stamp.

#### *Exemptions.*

All transfers of subscriptions to any of the Government Loans, or other Government Securities, also of Bank shares.

20. Copies, Copy or counterpart of any Deed or instrument attested to be a true copy and furnished to a party to the same, for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby.

The same duty as prescribed for the original Deed by this Regulation.

21. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the Agreement, Contract, Bond, Deed, or other Instrument, per sheet ... ..

Sa. Rs. As.  
0 8

22. Copy or extract of any Deed, Instrument, Schedule, Receipt, or other matter annexed to any agreement, Contract, Bond, Deed, or other instrument, per sheet ... ..

0 8

23. Authenticated Copies of any Records, Letters, Accounts, Statements, Reports, or other Writings furnished to individuals from any of the public offices of Government shall be written on paper of the size and description now used for the purpose, and called copy paper at the stamp office and of the value for each and every sheet of ... ..

0 8

*Exemptions.*

Copies made for the private use only of any person having the custody of the original instruments, or of his or her attorney or solicitor, and copies of Deeds, &c., retained in public offices on returning the originals.

Copies of papers which public officers are directed by any general regulation to make, require, or furnish, not being specially declared chargeable with stamp-duty.

24. Deeds of any kind not otherwise particularized in this Schedule. As agreements.

25. Exchanges. Any Deed, whereby any real property shall be conveyed, or surrendered in exchange for other property.

If no sum of money shall be paid, or agreed to be paid, for equality of exchange.

Rs. As.  
8 0

26. And if any sum of money be paid or agreed to be paid for equality of exchange.

The same *ad valorem* duty as for a conveyance for such sum.

27. Engagements to cultivate, provide, or deliver indigo plant, or to produce, manufacture, provide or deliver any other article of commerce, in consideration of advance made.

Shall be charged on the amount advanced at the rate of Bonds.

28. Leases, Any lease made in perpetuity, or for a term of years or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent.

The same duty as for a conveyance or sale for a sum of the amount of such consideration.

29. Any Lease of Lands, Houses, or other real property at a monthly or yearly rent, without any payment of any sum of money by way of fine or premium.

For a period not exceeding one year. For a period exceeding one year.

Where the rent calculated for a whole year shall exceed twelve rupees, but not exceed Rs. 24

Exceeding Rs. 24 but not exceeding

"	50	"	100
"	100	"	250
"	250	"	500
"	500	"	1,000
"	1,000	"	2,000
"	2,000	"	4,000
"	4,000	"	6,000
"	6,000	"	10,000
"	10,000	"	50,000
"	50,000	...	...

Sa.	Rs.	As.	Sa.	Rs.	As.
0	4		0	8	
0	8		0	12	
0	12		1	0	
1	0		2	0	
2	0		4	0	
4	0		8	0	
8	0		12	0	
12	0		16	0	
16	0		20	0	
20	0		32	0	
32	0		64	0	
64	0		80	0	

30. Any Lease of Lands, Houses, or other Real Property stipulating for a yearly rent and granted in consideration of a fine or premium.

Shall be charged with a duty equal to both *ad valorem* duties above provided, viz., both as Lease and Conveyance.

31. The Counterpart of any Lease, i.e., the *Kabulyat*, or the like.

Shall be executed on paper, vellum or parchment bearing the same stamp as the original.

*Exemptions.*

All leases where the annual rent shall not exceed twelve rupees.

All leases or pottahs given by authority of Government, or of the Board of Revenue, with their counterparts, and all Security-Bonds executed as part of the same transaction; also all leases, *viz.*, pottahs and kubulyats executed and exchanged with ryots and other actual cultivators of the soil.

*Note.*—Leases, *Pottahs*, *Kabulyats*, or other Instruments of contract between Zemindars, Talukdars, or other holders or proprietors of land whether subject to the payment of Revenue to Government or otherwise, or between Farmers, *Kutkenadars*, *Ijaradars* or other Tenants on one hand, and any other Talukdar, *Kutkenadar*, *Ijaradar*, or other Lease-holder intermediate between the ryots or actual cultivators and the *Sudder Mulguzar* or *Lakherajdar* on the other.

**Letters or Powers-of-Attorney**—*Mooktearnamas*, &c., *viz.*

32. Powers to perform any one special, that is to say, particular act, or the acts connected with one particular suit, case or transaction.

33. General, *i.e.*, not restricted as above to one case, suit or transaction.

34. **Letters of License** from Creditors to Debtors.

35. **Mortgages.** Any Deed of Mortgage or *Conditional Sale*, *Kutkubala*, *Bye Bil Vufu*, *Bhog Bhunduk*, &c., with or without possession given, of or for any lands, estates, or property, real or personal, intended as a security for money due, or to be lent thereupon: also, any Deed or contract accompanied with a deposit of Title-Deeds to any property, where the same may be made as a security for payment of money due or lent at the time.

36. Deeds of Mortgage or the like given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery, at a future date, of any matter or thing capable of being valued.

37. Deeds of Mortgage given for the security of annuities for an indefinite period, such as life annuities and the like.

38. Where the total amount secured by such mortgage is unlimited.

39. Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum.

*Note.*—When a bond may have been already taken for the amount secured, or where from any other cause, the mortgage shall act merely as a collateral security to some other transaction already charged with the *ad valorem* duty thereupon, the same being specified in the body of the Deed of Mortgage.

Likewise in case of there being more Deeds than one required to execute the mortgage in the manner desired by the parties, the principal Deed only shall be charged with the *ad valorem* duty and all other Deeds connected with the same transaction—

40. **Mortgages, Assignments, Acknowledgments.** or Promissory-notes granted to the Treasurer, or other officer of the Bank of Bengal on account of the Bank, or to any private banker or agent for loans or advances made on the deposit of Government Securities, Bullion, Plate, Jewels, or other Goods.

Shall be written on stamped paper of the value above prescribed for Leases.

Sa. Rs. As.

0 8

4 0

8 0

Shall be charged after the same manner and at the same rates as if in lieu of such Deed of Mortgage or the like, a Bond had been taken for the sum due or lent at the time.

Shall be charged at the above rate for the total amount assured or for the *bona fide* value.

Shall be charged at the rate of ten times the annual payment.

The Deed may be executed on such stamp as the party may choose, but no further sum can be recovered thereon than may be covered by the stamp.

At the rate of such limitation.

The Deed to be charged as a collateral Deed.

See Note after Conveyances.

Shall be charged as prescribed in the rule for collateral Deeds under head "Conveyances."

To be charged as Promissory-notes.

41. Partitions by private agreement of heirs and co-sharers, or made by public officers of estate or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, when a sharer's portion exceeds in value Rs. 800, then on every such sharer's copy of the Deed of Partition.

When the sharer's portion shall not exceed Rs. 800, then if not exceeding Rs. 100

Exceeding Rs. 100 and not exceeding Rs. 300

" 200 " 400

" 400 " 600

" 600 " 800

Sa. Rs. As.

8 0

0 8

1 0

2 0

4 0

6 0

And if any sum or sums of money shall be paid, or agreed to be paid, for equality of partition,

The principle Deed stipulating for such payment shall be charged besides with the *ad valorem* duty prescribed for a Conveyance or Sale for an equal sum.

42. Policy of Assurance or Insurance, or other instrument, by whatever name the same shall be called, whereby an insurance shall be made upon any life or lives, or upon an event depending upon any life or lives.

Sa. Rs. As.

Where the sum insured shall not exceed Sa. Rs. 5,000

4 0

Exceeding Rs. 5,000 not exceeding 10,000

8 0

" 10,000 " 20,000

12 0

" 20,000 " 50,000

16 0

Above ... 50,000

20 0

43. Policy of Insurance of any ship, vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per cent. on the sum insured, if the whole sum insured shall not exceed Rs. 1,000 ...

0 8

If the sum insured exceeds Rs. 1,000, then for every Rs. 1,000, and also for any fractional part of Rs. 1,000, whereof the same shall consist ...

0 8

Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed Rs. 1,000 ...

1 0

If the sum insured exceeds Rs. 1,000, then for every Rs. 1,000, and also for every fractional part of Rs. 1,000, whereof the same shall consist ...

1 0

**Fromissory-notes.—See BILLS-OF-EXCHANGE.**

**Fromissory notes, payable at a period exceeding one year after date.—**

**See BONDS.**

44. Promissory-notes for the payment of any sum by instalments, i.e. *Kistbundeas*; or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain.

The same duty as would be chargeable on a Bond for the whole amount.

All receipts for money deposited in any bank, or in the hands of any banker or agent; if the same shall stipulate for the payment of interest upon the money so deposited, or in hand, shall be deemed and taken to be promissory-notes.

54. Receipts or Discharges given for any, or upon the payment of any sum of money—				Sa.	Rs.	As.
Exceeding Rs.	50	and not exceeding	Rs.	100	0	2
"	100	"	"	200	0	4
"	200	"	"	500	0	8
"	500	"	"	1,000	0	12
"	1,000	"	"	2,000	1	0
"	2,000	"	"	3,000	1	8
"	3,000	"	"	5,000	2	0
"	5,000	"	"	8,000	2	8
Above Rs.	8,000	...	...	...	4	0
Also for a receipt in full of all demands	...	...	...	...	4	0

And any instrument, note, memorandum or writing, given upon the payment of money, whereby any money, debt or demand, or the part thereof, therein specified, shall be expressed or acknowledged to have been paid, settled, otherwise satisfied, shall be deemed to be a receipt for the amount so declared to be paid or satisfied. The duty is to be paid by the party giving the receipt, and if a stamped receipt be refused the party making the payment may provide the stamp, deducting the value thereof from the sum due.

And if any such instrument or other writing shall contain a general acknowledgment of the settlement of debts, accounts, or other demands, without specifying the amount thereof, such instrument or writing shall be deemed and taken to be a receipt in full of all demands, and charged accordingly.

And if payment be made by delivery of a bill or bills-of-exchange, draft or drafts, promissory-note, or the like securities of money, the receipt or acknowledgment given thereupon shall be deemed to be a receipt within the meaning of this schedule.

#### *Exemptions.*

Receipts for money paid or received by any officer of Government, on account of Government, not in the Commercial Department.

Receipts or discharges for the rent of land granted by any Zemindar, Talookdar, Farmer or other Malgoczar, or by any holder or proprietor of land held exempt from the payment of revenue or by any Mofussil Talookdar, Ijaradar, Kutkenadar, or other lease-holder, or by the Gomashta, factor, or other agent of such Zemindar or other person aforesaid, to a ryot or other actual cultivator for the rent of land tilled by him.

*Note.*—Receipts or discharges granted by any Zemindar, Talookdar, or other holder or proprietor of land or by any Farmer, Kutkenadar, Ijaradar or other Tenant to any other Talookdar, Kutkenadar, Ijaradar or other Lease-holder intermediate between the ryots or actual cultivators and the Sudder Maltgoczar or Lakherasjdar, shall be written on stamped paper of the kind and rates above prescribed.

#### *Exemptions.*

Receipts and discharges given for the purchase-money of any Government Securities or Shares of the Bank of Bengal.

Receipts and discharges given for money deposited in any Bank, or with any Agent to be accounted for on demand, provided no interest be stipulated as payable thereon.

(If interest be stipulated such receipt shall be chargeable as a promissory-note as above provided.)

Receipts or discharges written upon promissory-notes, bills-of-exchange, drafts or orders for the payment of money duly stamped.

Receipts and discharges given to Gomashtas and others being servants of the party giving the receipts in acknowledgment of the performance of service, or of the said servants having rendered account of trusts and monies committed to them.



Letters by the post, acknowledging the arrival of any promissory-notes, bills-of-exchange or other securities for money.

Receipts or discharges written upon or contained in any Mortgage-Deed, or other Security, or any Deed, of Conveyance, Settlement or other instrument duly stamped acknowledging the receipt of the consideration-money therein expressed or the receipt of any principal money, interest or annuity thereby secured.

46. **Settlements, Marriage Settlements &c. viz.,** any Deed or Instrument, whereby any sum or sums of money or any Government Securities or other property, real or personal, shall be settled or agreed to be settled upon, for the benefit of any person or persons in any manner whatsoever.

Shall be charged with the *ad valorem* duty chargeable for a Bond for the amount of value settled, or agreed to be settled; or in cases in which the value shall be indeterminate, at the rate chosen by the parties under the rule and condition prescribed for Bonds and Agreements.

**Deeds of Gift and Dower**, whether to take effect on the instant or at a future period, determinate or indeterminate, shall be charged as deeds of settlement.

#### *Exemptions.*

Wills, testaments, and the like, together with deeds merely declaratory of trust pursuant to any previous settlement, deed or will.

#### *General Exemption and Rule.*

Deeds, Instruments, and Writings of any kind, in which Government, or any Board, Commission, Court or Public Office of Government, may in a public capacity be a party, shall not be chargeable with any stamp-duty save and except Deeds, Instruments and Writings, relating to matters of or belonging to the Commercial Department, or on account of any commercial concern of or belonging to the Hon'ble Company, which shall be written on stamped paper of the same value as is or may be prescribed for the like Deeds or Instruments in the case of private individuals.

*Note.*—The foregoing Exemption shall not extend to Deeds, Instruments and Writings executed to or by the Court of Wards, Local Agents or Officers acting under their authority, such transactions being liable to a stamp-duty like the transactions of individuals.

#### *General Rule.*

If any Deed, Instrument, or Document specified in this Schedule shall not be contained in one sheet or piece of paper or other material it shall suffice that one sheet shall bear the stamp provided that the signature or seals of the parties and witnesses be thereupon. (Repealed by Act XLI of 1858 retrospectively.)

### ACT XIX OF 1858.

*In force from 6th January, 1858, up to 1st January, 1870.*

An Act to provide for the authentication of Stamped paper issued from the Stamp Office in Calcutta. (Repealed by Act XVIII of 1869.)

**Secs. 1 & 3.**—Whereas, during the recent disturbances, a large quantity of stamped paper issued from the Stamp Office in Calcutta, and remaining unsold in several of the Collector's Treasuries and in the possession of divers stamp vendors, was plundered;

and it is necessary to provide against the unlawful use of such stamped paper and the losses which would ensue to Government from such use thereof, it is enacted as follows :—

I. After the passing of this Act, no Deed, Instrument, or other writing specified in Schedule A, Reg. X, 1829, of the Bengal Code, and required by that Regulation to be stamped, and which shall bear date or shall appear to have been written after the passing of this Act, shall be filed, exhibited, or received in any Court of Justice or in any public office, unless the stamped paper, vellum, parchment, or other material upon which such Deed, Instrument, or other writing is written shall either bear such stamp signature, or other mark as hath been or shall be prescribed by the Governor-General in Council or by the Lieutenant-Governor of Bengal for the purpose of distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January, 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the Superintendent of Stamps in Calcutta, or of the Collector of some district, or of his Deputy or Assistant, together with the date of such signature.

II. A notification of the stamp, signature, or other mark prescribed for distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January 1858, shall be published in the "Calcutta Government Gazette" and in such other "Gazettes" as shall be published or shall circulate in any district in which stamps issued from the Stamp Office in Calcutta are used.

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#### ACT XLI OF 1858.

*In force from 2nd January, 1859, up to 1st January, 1870.*

An Act to amend Regulation X, 1829, Bengal Code. (Repealed by Act XVIII of 1869).

Secs. 1, 2.—Whereas, by the General Rule laid down at the end of Schedule A, annexed to Reg. X of 1829, of the Bengal Code, it is declared that, if any Deed, Instrument, or Document specified in that Schedule shall not be contained in one sheet or piece of paper or other material, it shall suffice that one sheet bear the stamp, provided that the seals or signatures of the parties and witnesses be thereupon; and whereas the said Rule has been productive of inconvenience, and there is reason to believe that many Deeds, Instruments, and Documents have been executed since the said Regulation came into effect in respect of which the said Rule has not been complied with; and it is expedient to repeal the said Rule, and to provide for the reception in evidence of such Deeds as aforesaid: it is declared and enacted as follows :—

I. The above Rule is hereby repealed.

II. Every Deed, Instrument, or Document specified in the said Schedule, which is or shall be contained in more than one sheet or piece of paper or other material, shall be deemed to be sufficiently stamped if any one or more of such sheets or pieces of paper or other material shall bear the requisite stamp or stamps equal in value to the requisite stamp, whether the signatures or seals of the parties and witnesses shall or shall not be upon such sheet or sheets. The above provision shall apply to Deeds, Instruments, and Documents executed before this Act, as well as to Deeds, Instruments and Documents which shall hereafter be executed. Provided, as regards Deeds, Instruments, and Documents which shall be executed after the 1st day of January, 1859, that every sheet or piece of paper or other material which shall contain any part of such Deed, Instrument, or Document shall be stamped with a Government stamp of the value of at least one anna.

## STAMP-DUTIES, CALCUTTA.

## REG. XII OF 1829.

*Stamp-duties in force from 12th July, 1827, up to 1st Oct., 1860.*

				Sa.	Rs.	As.
Agreement, or any minute or memorandum of an agreement concerning any matter or thing of the value of five hundred rupees or upwards, not otherwise charged in this schedule, nor expressly exempted from all stamp-duty whether the same be only evidence of a contract, or obligatory upon the party ... ..					8	0

*Exemptions.*

Memorandum of agreement for the hire of labour.

Ditto for the sale of goods, under the value of five hundred rupees, and all agreements carried on by letter and the like, between merchants and other persons residing forty miles from each other.

				Sa.	Rs.	As.
Assignments, if not of the nature specified under the heads of conveyances and settlement, nor specially exempted.					8	0

Bills-of-exchange, drafts, promissory-notes, hoonnies, teeps, burats, or other order or obligation for the payment of money payable (if payable within the Provinces subordinate to this Presidency) at sight, or at any stated period, not exceeding three months after date, or ninety days after sight (not being a deed, instrument, or writing bearing the attestation of one or more witnesses), together with all bills-of-exchange, payable out of the said provinces at whatever date.

			Rs.	Sa.	Rs.	As.
If for a sum of money not exceeding			25		0	1
Above Rs. 25 and not exceeding			50		0	2
" 50	"		100		0	4
" 100	"		200		0	8
" 200	"		400		0	12
" 400	"		800		1	0
" 800	"		1,600		1	8
" 1,600	"		3,000		2	0
" 3,000	"		5,000		2	8
" 5,000	"		10,000		4	0
" 10,000	"		20,000		6	0
" 20,000	"		30,000		8	0
" 30,000	"		50,000		12	0
" 50,000	"		1,00,000		16	0
" 1,00,000	...		.....		20	0

Promissory-notes written on paper of the above value, shall not be re-issued after payment.

Promissory-notes intended to be re-issued, shall be charged as follows :—

			Rs.	Sa.	Rs.	As.
If for a sum of money not exceeding			25		0	2
Above Rs. 25 and not exceeding			50		0	4
" 50	"		100		0	8
" 100	"		200		0	12
" 200	"		400		1	0
" 400	"		800		1	8
" 800	"		1,600		2	0
" 1,600	"		3,000		2	8
" 3,000	"		5,000		4	0
" 5,000	"		10,000		6	0
" 10,000	"		20,000		8	0
" 20,000	"		30,000		12	0
" 30,000	"		50,000		16	0
" 50,000	"		1,00,000		20	0
" 1,00,000	...		...		32	0

*Notes.*—The Governor-General in Council reserves to himself the power of admitting any bank or company to compound for the stamp-duty chargeable on the notes issued by it. Notice of such arrangements shall be given in the Government Gazette.

Foreign bills-of-exchange, drawn in sets, for every bill of each set, where the sum made payable thereby may not exceed				Rs.	400	Sa.	Rs.	As.
More than	Rs.	400	but not exceeding	Rs.	800	0	12	
"		800	"		1,600	1	0	
"		1,600	"		3,000	1	8	
"		3,000	"		5,000	2	0	
"		5,000	"		10,000	2	8	
"		10,000	"		20,000	4	0	
"		20,000	"		30,000	6	0	
"		30,000	"		50,000	8	0	
Exceeding	Rs.	50,000	...	...	...	12	0	

#### *Exemptions.*

Bills-of-exchange drawn, and promissory-notes issued by Government officers, having authority to draw bills upon the Government treasuries, or to issue promissory-notes or other acknowledgments, on account of Government.

All drafts or orders, for the payment of any sum of money, on demand, drawn upon any bank, banker, or agent, residing within 20 miles of the place where such draft or order shall be issued, such place being specified on the face of the draft.

Bills-of-Lading, of or for, any goods to be exported ...	Sa.	Rs.	As.
	1	0	

#### **Bills of Sale.**

An absolute bill of sale. *See* Conveyances.

Bill of sale as a security, being the principal, or only deed whereby the property is conveyed. *See* Mortgage.

Bill of sale as a security, being merely a collateral one, with some deed or instrument that has paid the <i>ad valorem</i> duty prescribed for conveyances ...	Sa.	Rs.	As.
	8	0	

**Bonds, *tumasooks*, promissory-notes or other obligation for the payment of money payable at a period exceeding three months after date, or ninety days after sight.**

If for any sum not exceeding	...	Rs.	25	Sa.	Rs.	As.
Above	Rs.	25 and not exceeding	Rs.			
"		50		0	4	
"		100		0	8	
"		200		1	0	
"		300		2	0	
"		500		4	0	
"		1,000		6	0	
"		2,000		10	0	
"		3,000		16	0	
"		5,000		20	0	
"		10,000		32	0	
"		20,000		40	0	
"		30,000		50	0	
"		50,000		64	0	
"		75,000		70	0	
"		1,00,000		80	0	
"		1,50,000		100	0	
"		2,00,000		120	0	
"		...		150	0	

**Bonds concerning respondentia and bottomry**

*Ad valorem* as above.

Bonds given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery or accounting for any matter or thing capable of being valued. }

Shall be charged at the rate of the amount engaged to be paid or accounted for, or at the value of the thing to be delivered, or transferred.

Bonds for annuities for an indefinite period, such as life annuities and the like. }

Shall be charged at the rate of ten times the yearly payment.

Bonds where the amount of the money to be secured or ultimately recovered shall be uncertain and unlimited ...

Sa. Rs. A.  
150 0

Where the amount is limited to a certain sum ...

The same as on a Bond for such limited sum.

Bonds taken as collateral security, with some deed or instrument that has paid the *ad valorem* duty prescribed for conveyances or money-bonds, or as security for the performance of any other contract, covenant, or agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand.

Sa. Rs. As.  
8 0

Bonds of indemnity.

Bonds for the due execution of an office or work, and all other bonds not otherwise charged or exempted from duty.

#### *Exemptions.*

##### **Arbitration Bonds.**

Bonds given to or by the officers of Government, on account of any matter, or thing of, or belonging to, the Government in its political or territorial capacity.

Security-bonds, which may be taken by, or by order of any Court-Collector, or other Judicial or Revenue authority, *razaenamahs*, *sooluhnamahs*, and *ruffanamahs*, filed in any suit pending in a Court of Justice, shall be charged, as prescribed in the regulations already in force or hereafter to be enacted.

Charter parties, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter or other writing between the captain, master or owner of any ship or vessel, and any other person, for, or relating to, the freight or conveyance of any money, goods, or effects, on board of such ship or vessel ...

Sa. Rs. As.  
8 0

#### *Exemptions.*

Charter-parties of ships or vessels taken up by Government, for the conveyance of troops or military stores, or for other political purposes.

Contracts, or Deeds, if not otherwise charged nor exempted from duty ...

Sa. Rs. As.

Go-partnership, Deeds of ...

Composition-deeds, or other instruments of composition between a debtor or debtors and his, her or their creditors ...

8 0

Conveyances, whether grant, disposition, assignment, transfer, renunciation or of any other kind or description whatsoever upon the sale of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claims in, to, out of, or upon any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only deed, instrument, or writing whereby the property sold shall be conveyed to, or otherwise vested in the purchaser or purchasers or to some other person, by his or their direction.

Where the purchase or consideration money therein expressed or denoted shall not exceed			Sa. Rs.	As.
		Rs. 50	0	8
Above Rs.	50 and not exceeding	100	1	0
"	100	200	2	0
"	200	500	4	0
"	500	1,000	8	0
"	1,000	2,000	12	0
"	2,000	3,000	16	0
"	3,000	5,000	20	0
"	5,000	8,000	32	0
"	8,000	12,000	40	0
"	12,000	20,000	50	0
"	20,000	30,000	64	0
"	30,000	50,000	80	0
"	50,000	1,00,000	100	0
"	1,00,000	2,00,000	150	0
And for every further lac of rupees beyond 2 lacs			100	0

*Note.*—Where of several deeds, instruments, or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on paper, parchment, vellum, or the like, stamped for the prescribed *ad valorem* duty provided, however, that in all cases where there are more deeds than one, all other deeds than the principal shall be charged with a stamp-duty of eight rupees, and all such deeds shall specify by their contents which other is the principal deed by which the conveyance has been effected, certifying that it is executed in the manner and on the material stamped as required.

#### *Exemptions.*

All grants, leases, sales, or the like, wherein Government in its political or territorial capacity, is a party.

*Note.*—This exemption shall not extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees of Court in which cases the purchaser shall be required to pay the prescribed duty along with the purchase-money, and shall receive, from the officer conducting the sale, a deed of sale executed on paper impressed with a corresponding stamp.

All transfers of subscriptions to any of the Government loans or other Government securities; also of bank shares.

**Copies.**—Copy in any manner authenticated, or declared to be a true copy, or made for the purpose of being given in evidence as a true copy of any bond, deed or instrument of agreement, contract, conveyance, or of any deed or instrument whatsoever chargeable with a stamp-duty.

Where such copy shall be made for the security or use of any person being a party to, or taking any benefit, or interest immediately under such agreement, contract, bond, deed, or other instrument.	The same duty as for the original instrument.
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Where such copy shall be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument	Sa. Rs.	As.
...	8	0

Likewise any copy authenticated, or made as aforesaid of any schedule, receipt, or other matter put or endorsed on, or annexed to any such agreement, contract, bond, deed, or other instrument aforesaid...	8	0
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<i>Note.</i> —Authenticated copies of any records, letters, accounts statements, reports, or other writings furnished to individuals, from any of the public offices of Government in Calcutta, shall be written on paper of the value, for each and every sheet, of	0	8
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*Exemptions.*

Copies made for the private use only of any person having the custody of the original instruments, or of his or her attorney or solicitor.

Copies of papers, which public officers are directed by any general regulation to make, require or furnish, not specially declared chargeable with stamp-duty.

Copies of proceedings and decrees of the Sudder Dewanny Adawlut, which shall be charged in the manner, and subject to the conditions prescribed in Reg. I, 1814, and other subsequent regulations.

<b>Deeds</b> of any kind, not otherwise particularized in this schedule ... ..	<b>Sa.</b>	<b>Rs.</b>	<b>As.</b>
		8	0
<b>Exchanges.</b> Any deed whereby any real property shall be conveyed or surrendered in exchange for other property... If no sum of money shall be paid, or agreed to be paid for equality of exchange... .. And if any sum of money be paid, or agreed to be paid for equality of exchange.		8	0
	The same <i>ad valorem</i> duty as for a conveyance for such sum.		
<b>Engagements</b> to cultivate, provide or deliver indigo plant, or to produce, manufacture, provide or deliver any other article of commerce, in consideration of advance made.	Shall be charged on the amount advanced, at the rate of bonds, or other obligations for the payment of money payable at a period exceeding three months after date.		
<b>Leases.</b> Any lease made in perpetuity, or for a term of years or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent.	The same duty as for a conveyance or sale, for a sum of the amount of such consideration.		

Any lease of lands, houses, or other real property, at a yearly rent, without any payment of any sum of money, by way of fine or premium.

Where the yearly rent shall exceed Rs. 12 but shall not exceed Rs. 24 ... ..	<b>Sa.</b>	<b>Rs.</b>	<b>As.</b>
Exceeding Rs. 24 but not exceeding Rs. 50		0	8
" 50 " 100		0	12
" 100 " 250		1	0
" 250 " 500		2	0
" 500 " 1,000		4	0
" 1,000 " 2,000		8	0
" 2,000 " 4,000		12	0
" 4,000 " 6,000		16	0
" 6,000 " 10,000		20	0
" 10,000 " Above Rs. 50,000		32	0
		64	0
		80	0
Any lease of lands, houses, or other real property stipulating for a yearly rent, and granted in consideration of a fine or premium ... ..	Shall be charged with both <i>ad valorem</i> duties above provided.		
The counterpart of any lease charged with a duty exceeding eight rupees, shall likewise be executed on paper, vellum, or parchment bearing a stamp of ... ..	<b>Sa.</b>	<b>Rs.</b>	<b>As.</b>
		4	0

*Exemptions.*

All leases where the annual rent shall not exceed twelve rupees.

All leases or pottahs given by authority of Government, or of the Board of Revenue.

Letters or powers of attorney, or commission, or factory, in the nature thereof.

Powers to perform any one special, that is to say, particular act, or the acts connected with one particular suit, case, or transaction or sundry acts to be done, after a manner specified in the instrument...

General ... ..

Sa.	Rs.	As.
	2	0
	4	0

#### Exemptions.

Vakalatnamahs executed to regular pleaders of the Sudder Dewanny Adawlut, or any of the Subordinate Courts of Judicature authorising them to prosecute or defend suits therein pending, or to present or make any miscellaneous petition, application or motion to the Court which are to be charged as prescribed in Reg. I, 1814.

	Sa.	Rs.	As.
Letters of License from creditors to debtors ...		8	0

Mortgages. Any deed of mortgage or conditional sale, with or without possession given of any lands, estate, or property, real or personal, intended as security for money due or to be lent thereupon; also any deed, or contract, accompanied with a deposit of title-deeds to any property, where the same may be made as a security for payment of money due or lent at the time.

Shall be charged after the same manner and at the same rates as if, in lieu of such deed of mortgage or the like, a bond had been taken for the sum due or lent at the time.

Deeds of Mortgage or the like, given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or the delivery at a future date of any matter or thing capable of being valued.

Shall be charged at the rate of the total amount assured, or of the *bona fide* value.

Deeds of Mortgage given for the security of annuities for an indefinite period, such as life annuities and the like.

Shall be charged at the rate of ten times the annual payment.

Where the total amount secured by such mortgage is unlimited ... ..

Sa.	Rs.	As.
	150	0

Where it may be stipulated, that the amount secured by such mortgage shall not exceed a certain sum.

At the rate of such limitation.

Note.—Where a bond may have been already taken for the amount secured, or where from any other cause the mortgage shall act merely as collateral security to some other transaction, already charged with the *ad valorem* duty thereupon, the same being specified in the body of the deed of mortgage,

Likewise in case of there being more deeds than one required, to execute the mortgage in the manner desired by the parties, the principal deed only shall be charged with the *ad valorem* duty, and all other deeds connected with the same transaction.

Sa.	Rs.	As.
	8	0

Acknowledgments or promissory-notes granted to the treasurer or other officer of the Bank of Bengal, on account of the Bank, or to any private banker or agent for loans or advances made on the deposit of Government Securities, bullion, plates, jewels, or other goods, and payable within three months after date, shall be charged as promissory-notes. If payable at a date exceeding three months, shall be charged as deeds of mortgage.



**Partition.** Any deed of partition of real or personal property adjusted by mutual agreement amongst co-heirs, co-parceners, or the like ... ..

Sa. Rs. As.

8 0

The principal deed stipulating for such payment shall be charged with the *ad valorem* duty prescribed for a conveyance or sale for an equal sum.

If any sum or sums of money shall be paid or agreed to be paid for equality of partition ... ..

**Policy of Assurance or Insurance,** or other instrument, by whatever name the same shall be called, whereby an insurance shall be made upon any life or lives, or upon an event depending upon any life or lives.

Where the sum insured shall not exceed Rs. 5,000  
Exceeding Rs. 5,000. not exceeding 10,000  
" 10,000 " 20,000  
" 20,000 " 50,000  
Above 50,000 ... ..

Sa. Rs. As.

4 0  
9 0  
12 0  
16 0  
20 0

**Policy of Insurance** of any ship, vessel, sloop, lighter, boat, or the like, any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed 2 per cent. on the sum insured, if the whole sum insured shall not exceed Rs. 1,000 ... ..

0 8

If the sum insured exceed 1,000 rupees, then for every 1,000 rupees, and also for any fractional part of 1,000 rupees, thereof the same shall consist ... ..

0 8

Where the premium shall exceed 2 per cent. on the sum insured, if the whole sum shall not exceed 1,000 rupees ... ..

1 0

If the sum insured exceeds 1,000 rupees, then for every 1,000 rupees, and also for any fractional part of 1,000 rupees, whereof the same shall consist ... ..

1 0

**Promissory-notes.** Payable to bearer on demand, at sight, or at any stated period, not exceeding three months after date or 90 days after sight.

See Bills of Exchange.

**Promissory-notes.** Payable at a period exceeding three months after date or 90 days after sight.

See Bonds.

**Promissory-notes.** For the payment of any sum by instalments, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain.

The same duty as would be chargeable on a Bond for the whole amount.

All receipts for money deposited in any bank, or in the hands of any banker or agent, if the same shall stipulate for the payment of interest upon the money so deposited, or in hand, shall be deemed and taken to be promissory-note.

**Receipts or discharges** given for or upon the payment of any sum of money not exceeding Rs. 32  
Exceeding Rs. 32 not exceeding Rs. 100  
" 100 " 200  
" 200 " 500  
" 500 " 1,000  
" 1,000 " 2,000  
" 2,000 " 3,000  
" 3,000 " 5,000  
" 5,000 " 8,000  
Above 8,000 ... ..

Sa. Rs. As.

0 1  
0 2  
0 4  
0 8  
0 12  
1 0  
1 8  
2 0  
2 8  
4 0

Also for a receipt in full of all demands.

4 0

And any instrument, note, memorandum, or writing given upon the payment of money, whereby any money, debt, or demand, or the part thereof therein specified, shall be expressed or acknowledged to have been paid, settled, or otherwise satisfied, shall be deemed to be a receipt for the amount so declared to be paid or satisfied.

And if any such instrument or other writing shall contain a general acknowledgment of the settlement of debts, accounts, or other demands, without specifying the amount thereof, such instrument or writing shall be deemed and taken to be a receipt in full of all demands, and charged accordingly.

And if payment be made by delivery of a bill or bills-of-exchange, draft or drafts, promissory-notes, or the like, securities of money, the receipt or acknowledgment given thereupon shall be deemed to be a receipt within the meaning of this schedule.

#### *Exemptions.*

Receipts for money paid or received by any officer of Government on account of Government.

Receipts or discharges given for the purchase money of any Government securities or shares of the Bank of Bengal.

Receipts or discharges given for money deposited in any bank or with any agent, to be accounted for on demand, provided no interest be stipulated as payable thereon. If interest be stipulated, such receipt shall be chargeable as a promissory note.

Receipts or discharges written upon promissory-notes, bills-of-exchange, drafts or orders for the payment of money duly stamped.

Letters by the post acknowledging the arrival of any promissory-notes, bills-of-exchange, or other securities for money.

Receipts or discharges written upon or contained in any bond, mortgage or other security, or other conveyance, deed or other instrument duly stamped, acknowledging the receipt of the consideration-money therein expressed or the receipt of any principal money, interest or annuity thereby secured.

**Settlements.** Any deed or instrument whereby any sum or sums of money, or any Government Securities, or other property, real or personal, shall be settled or agreed to be settled upon, or for the benefit of any person or persons, in any manner whatsoever.

Shall be charged with the *ad valorem* duty chargeable for a Bond for the amount or value settled, or agreed to be settled, or, in case in which the value shall be indeterminate, at the rate of 100 rupees.

Deeds of Gift and Dower, whether to take effect on the instant or at a future period, determinate or indeterminate, shall be charged as deeds of settlement.

#### *Exemptions.*

Wills, testaments and the like, together with deeds merely declaratory of trust pursuant to any previous settlement; deed or will.

#### *General Exemptions.*

Deeds, instruments, and writings of any kind, in which Government or any Board, Commission, Court, or public officer, may, in a public capacity, be a party, save and except deeds, instruments, and writings relating to matters of or belonging to the commercial department, shall not be chargeable with any stamp-duty.

## APPENDIX V-B.

### STAMP-DUTIES, BOMBAY PRESIDENCY.

#### REG. XIV OF 1815.

*In force from 1st March, 1816, up to 1st November, 1827.*

(But did not commence to operate in the zillahs of Surat and Broach till 21st Oct., 1816.) Gujerat was acquired in 1805; Poonah, the Southern Mabratta country, and Kandeish in 1818.)

**Sec. 23.**—From and after the date specified in the preamble to this Regulation, every bond, promissory-note, or other obligation, for the payment of a specific sum of money—every deed of gift, sale, devise, or other transfer of property, real or personal—every lease (except as provided for in the following section—every mortgage or other limited assignment of immoveable property, which may be executed within the provinces subject to the Presidency of Bombay, shall be written on paper (or some other material) impressed with the Government stamp, the value of which stamp shall be regulated as follows:—

If the bond or other instrument shall be for a sum not exceeding sixteen rupees, or if the value of the property transferred, or otherwise affected by it, shall not exceed sixteen rupees, the deed shall be executed on stamped paper of the value of						
If above	Rs.	16 and not exceeding	Rs.	64	Two annas.	
"	64	"		125	Four annas.	
"	125	"		250	Eight annas.	
"	250	"		500	One rupee.	
"	500	"		1,000	Two rupees.	
"	1,000	"		2,000	Four rupees.	
"	2,000	"		5,000	Eight rupees.	
"	5,000	"		10,000	Sixteen rupees.	
"	10,000	"		20,000	Thirty rupees.	
"	20,000	"		50,000	Fifty rupees.	
"	50,000	"		1,00,000	One hundred rupees.	
"	1,00,000	...		...	One hundred and fifty rupees.	

**Sec. 24.**—To prevent misconstruction, it is hereby declared, that every lease and its counterpart (pottah and kaboolyut) or other engagement contracted between landlord and tenant—every receipt (dakilah) or other acknowledgment for the payment of rent, is required to be written on paper bearing the prescribed stamp, supposing that such lease, receipt, or other instrument relate to land held exempt from the payment of revenue to Government; but that instruments of the correspondent descriptions which have relation to land subject to the payment of revenue to Government, need not be written on stamped paper.

**Copies.**—**Sec. 36.** All authenticated copies of the documents specified in Section XXIII of this Regulation, which may be prepared as legal vouchers by a Cauzy, Muffy, or other authorized person shall be written on stamped paper, according to the rates prescribed for the originals of such deeds. Any copies not written on such paper will not be admissible in evidence under Section XIII of this Regulation.

**Sec. 37.**—In explanation of Section XXIII of this Regulation, it is hereby declared, that security-bonds for appearance (*hazir-zamini*), security-bonds for the payment of eventual costs of suit, as well as of all other security-bonds, not being for a specific amount, so as to make it practicable to apply to them the table of rates stated in Section XXIII of this Regulation, are required to be written on stamped paper of the value of one rupee, under the penalty declared in Section XIII of this Regulation.

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**REG. XVIII OF 1827.**

*In force from 1st November, 1827, up to 1st October, 1860.*

Table showing the value of the stamp to be used for every **Bond, Promissory-note, Bill of Exchange, Letter of Credit, Deed of Contract, Marriage-Settlement, Partnership or Agreement**, security or engagement (with the exception of engagements and releases between Governments or its officers and individuals, and leases and their counterparts, or other similar engagements relating to the rent of land passed between landlord and tenant as specified in Section X, clause (3), and for every deed of sale, gift, devise, mortgage, or other transfer or limited assignment of property, moveable or immoveable, of a value specified in such deed.

If for a sum or value not exceeding Rs. 16 no stamp is required.

If above	Rs.	16 and not exceeding	Rs.	
"	32	"	32	One anna.
"	64	"	64	Two annas.
"	125	"	125	Four annas.
"	250	"	250	Eight annas.
"	500	"	500	One rupee.
"	1,000	"	1,000	Two rupees.
"	2,000	"	2,000	Four rupees.
"	5,000	"	5,000	Eight rupees.
"	10,000	"	10,000	Sixteen rupees.
"	20,000	"	20,000	Thirty rupees.
"	50,000	"	50,000	Fifty rupees.
"	1,00,000	"	1,00,000	One hundred rupees.
"	1,00,000 to whatever amount	...	...	One hundred and fifty rupees.

## APPENDIX V-C.

### STAMP-DUTIES, MADRAS PRESIDENCY.

REG. VIII of 1808.

*In force from 1st January, 1809, up to 12th July, 1817.*

**Secs. 9, 10 & 11.**—All original obligations for the payment of money, whether **Bonds, Promissory-notes, Drafts, Bills-of-Exchange**, or of any other denomination whatever, which may be executed or drawn within the provinces subject to the Government of Fort St. George, from and after the last day of January, 1809, for the payment of a sum of money exceeding sixteen rupees, exclusive of interest (excepting obligations which may be executed or drawn on the part of Government or for money payable to Government, and also excepting obligations for the rent of land paying revenue to Government), shall be written on stamped paper, subject to the following rates of duty to be specified in the respective stamps :—

1.	If the obligation be for a sum exceeding			
	Rs. 16 and not above	...	Rs. 64	Two annas.
2.	If exceeding Rs.	64 and not above	Rs. 125	Four annas.
3.	"	125	"	250
4.	"	250	"	500
5.	"	500	"	1,000
6.	"	1,000	"	2,000
7.	"	2,000	...	...
				Eight rupees.

From and after the 1st day of January, 1809, all **acknowledgments** for the **receipt of money**, whereby any sum exceeding sixteen Arcot rupees shall be acknowledged to have been paid, received, accounted for balanced, discharged, released, or in any manner satisfied, or which shall in any manner signify such acknowledgment with an exception to all acknowledgments granted on the part of Government or for sums received from Government, and also with an exception to all acknowledgments for the rent of land paying revenue to Government), shall be written on stamped paper, subject to the rates of duty specified in the preceding section, upon obligations for the payment of money, and the stamps for the several receipts shall have the same inscriptions as have been prescribed for obligations.

All original deeds for the sale, gift, devise or other transfer of property, real or personal, all deeds of mortgage, assignment or release, and all other deeds of contract and agreement, as well as other legal instruments of whatever denomination (with the exceptions hereafter noticed), which may be executed within the provinces subject to the Presidency of Fort St. George, from and after the 1st day of January, 1809, and also all copies of such deeds and instruments, which may be prepared after the said date as legal vouchers, whether by a Cauzy, Mufty, or any other person, shall be written on stamped paper, subject to a duty of four annas, eight annas, one rupee or two rupees, according to the size of the paper which may be used for such original deeds or instruments or the copies of them.

The several stamps shall have an inscription in the Persian, Telinga and Tamil languages and characters to the following effect :—

Law Papers	...	...	"Two rupees."
or —————	...	...	"One rupee."
or —————	...	...	"Eight annas."
or —————	...	...	"Four annas."

## REG. II OF 1813.

*In force from 9th November, 1813, up to 12th July, 1817.*

This Regulation introduced the optional use of stamped cadjans for all the purposes for which stamped papers were used under Reg. VIII, ss. 9, 10 & 11, and subject to the same rules,

## REG. XIII OF 1816.

*In force from 12th July, 1817, up to 1st October, 1860.*

**Sec. 11.**—From and after the date specified in the preamble to this Regulation, every bond, promissory-note, bill-of-exchange, letter of credit, or other obligation for the payment of money—every receipt or acquittance, whereby any sum of money or demand shall be acknowledged to have been paid, received, liquidated, discharged, accounted for, or in any manner satisfied—every deed of gift, sale, devise or other transfer of property, real or personal—every lease, deed of mortgage, or other limited assignment of land—every deed of contract, marriage settlement, partnership, agreement, security, or engagement for a sum of money or for property exceeding the value of sixteen rupees, which may be executed within the provinces subject to the Presidency of Fort St. George, shall be written on paper (or some other material) impressed with the Government stamp, the value of which stamp shall be regulated as follows :—

1.	If the bond or other instrument shall be for a sum exceeding 16 Arcot rupees, or if the value of the property transferred, or otherwise affected by it shall exceed Rs. 16, and not exceed Rs. 64, the deed shall be executed on stamped paper of the value of			Two annas.
2.	If above	Rs. 64 and not exceeding Rs.	125	Four annas.
3.	"	"	250	Eight annas.
4.	"	"	500	One rupee.
5.	"	"	1,000	Two rupees.
6.	"	"	2,000	Four rupees.
7.	"	"	5,000	Eight rupees.
8.	"	"	10,000	Sixteen rupees.
9.	"	"	20,000	Thirty-two rupees.
10.	"	"	50,000	Fifty rupees.
11.	"	"	1,00,000	One hundred rupees.
12.	"	100,000 ... ..	...	One hundred and fifty rupees.

**Sec. 12.**—*First.*—To prevent misconstruction, it is hereby declared that every lease and its counterpart (pottah and kaboolyut) or other engagement contracted between landlord and tenant, and every receipt or other acknowledgment for the payment of rent exceeding sixteen rupees is required to be written on paper or other material bearing the prescribed stamp supposing that such lease, receipt, or other instrument relate to lands held exempt from the payment of revenue to Government, but that

instruments of the correspondent descriptions which have relation to lands subject to the payment of revenue to Government, need not be written on stamps.

*Second.*—All authenticated copies of the documents specified in the preceding section which may be prepared as legal vouchers by a Cauzy, Muttý, or other authorised person, shall be written on stamped paper or cadjan, according to the rates prescribed for the originals of such deeds; and copies not written on such paper or cadjan will not be admissible in evidence under Section IX of this Regulation.

*Third.*—Security-bonds for appearance (bazir-zamini), security-bonds for the payment of eventual costs of suit, as well as all other security-bonds not being for a specific amount, and all deeds of contract, partnership or agreement, and engagements of whatever nature, which may not relate to a specific sum of money or to a specific value, so as to make it practicable to apply to them the table of rates stated in the preceding section, are required to be written on stamped paper or stamped cadjan of the value of one rupee, under the penalty declared in Section IX of this Regulation.

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## REG. II OF 1825.

*In force from 15th April, 1825, up to 1st October, 1860.*

The stamp-duties were maintained, but instruments not exceeding Rs. 64 in value, and also wills, were exempted altogether.

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**Note 1.**—The thick figures at the end of each line refer to the pages of this volume and the alphabets in italics preceding the thick figures refer to the cases having corresponding thick letters against them in those pages.

**2.**—S in Brevier Roman denotes the section.

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